

Chapter II

AGENDA

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INTRODUCTORY NOTE

The present chapter of the *Repertoire* contains material concerning rules 6 through 11 of the provisional rules of procedure of the Security Council relating to agenda. Since the Security Council has not held periodic meetings, the chapter contains no treatment of rule 12.

The use of the term "agenda" in the Security Council gives rise to certain difficulties in classification, since the term has been used sometimes to denote the provisional agenda, sometimes the agenda as adopted, and, again, matters with which the Security Council has a continuing concern.

The provisional agenda is the document drawn up by the Secretary-General in accordance with rule 7 and approved by the President of the Security Council, which is placed before each meeting of the Council containing the list of matters suggested for consideration at that particular meeting.

The provisional agenda, as adopted by the Council, becomes the agenda in the sense of the list of matters which the Security Council has decided should be discussed at that particular meeting. In the application of rules 10 and 11, items once adopted on the agenda thereafter, in the absence of a decision by the Council to the contrary, stand on the agenda in the sense of the totality of matters of which the Council is seized, and continue to stand on this agenda, whether or not included in the agenda of the next meeting as required by rule 10. A summary statement of such matters and of the stage reached in their consideration is communicated each week by the Secretary-General to the representatives on the Security Council.¹

Throughout this chapter, material is presented directly under the rule of procedure to which it relates. Part I presents certain explanations proffered at the time of the adoption of the provisional rules. Part II provides information concerning the preparation and communication of the provisional agenda (rules 6, 7 and 8). The material which follows is presented under two heads: part III: Adoption of the Agenda (rule 9), and part IV: The Agenda: Matters of which the Security Council is seized (rules 10 and 11).

Part III contains material on the procedure and practice of the Security Council in the adoption of the agenda. Section A is prefaced by a list of votes taken in adopting the agenda arranged by forms of proposals voted upon, the list being followed by selected case histories setting forth discussion in the Council concerning procedural aspects of the adoption of the agenda. Section B of part III presents case histories setting forth discussion in the Council of the requirements for the inclusion of an item in the agenda and

¹ It is also the duty of the Secretary-General, under Article 12 (2) of the Charter, to notify the General Assembly at each session, with the consent of the Security Council, "of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council". Regarding these notifications, which are based upon the Summary Statement circulated under rule 11, reference should be made to chapter VI, note to part I, section A.

of the effects of such inclusion. Section C covers other questions which have arisen in the discussion of the adoption of the agenda such as the order of discussion, the phraseology of items and postponement of consideration.

Part IV relates to the list of matters of which the Security Council is seized. A tabulation is included of items which have appeared in the Secretary-General's summary statement of matters of which the Security Council is seized, with indications of first inclusion in the Security Council's agenda and in the Secretary-General's summary statement, the latest action of the Council and the retention or removal of the item in the summary statement. There follow case histories of the discussion in the Council of the various questions arising in connexion with the retention or removal of an item on the agenda.

PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL REGARDING AGENDA IN FORCE FROM THE 1ST MEETING ON 17 JANUARY 1946 TO THE 31ST MEETING ON 9 APRIL 1946²

"Rule 4

"The provisional agenda for each meeting shall be drawn up by the Secretary-General and approved by the President of the Security Council.

"Rule 5

"The provisional agenda for each regular meeting shall be circulated by the Secretary-General to representatives on the Security Council . . . in advance.

"Rule 6

"The provisional agenda for each periodic meeting shall be circulated to the members of the Security Council at least twenty-one days before the opening of the meeting. Any subsequent change in or addition to this provisional agenda shall be brought to the notice of the members at least five days before the meeting. The Security Council may, however, in urgent circumstances, make additions to the agenda at any time during a periodic meeting.

"Rule 7

"The provisional agenda for an extraordinary meeting shall be communicated by the Secretary-General to the members of the Security Council and to their representatives on the Council simultaneously with the convocation of the extraordinary meeting.

"Rule 8

"The first item on the provisional agenda of any meeting of the Security Council shall be the adoption of the agenda."

² O.R., 1st year, 1st series, Suppl. No. 1, annex 1, pp. 3-4.

PROVISIONAL RULES OF PROCEDURE OF THE SECURITY COUNCIL REGARDING AGENDA ADOPTED AT THE 31ST MEETING ON 9 APRIL 1946

"Rule 6

"The Secretary-General shall immediately bring to the attention of all representatives on the Security Council all communications from States, organs of the United Nations, or the Secretary-General concerning any matter for the consideration of the Security Council in accordance with the provisions of the Charter.

"Rule 7

"The Provisional Agenda for each meeting of the Security Council shall be drawn up by the Secretary-General and approved by the President of the Security Council.

"Only items which have been brought to the attention of the representatives on the Security Council in accordance with Rule 6, items covered by Rule 10, or matters which the Security Council has previously decided to defer, may be included in the Provisional Agenda.

"Rule 8

"The Provisional Agenda for a meeting shall be communicated by the Secretary-General to the representatives on the Security Council at least three days before the meeting, but in urgent circumstances it may be communicated simultaneously with the notice of the meeting.

"Rule 9

"The first item of the Provisional Agenda for each meeting of the Security Council shall be the adoption of the Agenda.

"Rule 10

"Any item on the Agenda of a meeting of the Security Council, consideration of which has not been completed at that meeting, shall, unless the Security Council otherwise decides, automatically be included in the Agenda of the next meeting.

"Rule 11

"The Secretary-General shall communicate each week to the representatives on the Security Council a summary statement of matters of which the Security Council is seized and of the stage reached in their consideration.

"Rule 12

"The Provisional Agenda for each periodic meeting shall be circulated to the members of the Security Council at least twenty-one days before the opening of the meeting. Any subsequent change in or addition to the Provisional Agenda shall be brought to the notice of the members at least five days before the meeting. The Security Council may, however, in urgent circumstances, make additions to the Agenda at any time during a periodic meeting.

"The provisions of Rule 7, paragraph 1, and of Rule 9, shall apply also to periodic meetings."

Part I

CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 6-12

CASE 1

At the 31st meeting on 9 April 1946, in connexion with the report of the Committee of Experts on the provisional rules of procedure, the Chairman of the Committee of Experts observed:¹

"(2) *Agenda*: With respect to the rules concerning the agenda, the Committee was desirous of clarifying (a) the manner in which matters should be brought to the attention of the Council, (b) the precise meaning of the term 'agenda' and (c) the procedure to be adopted by the Council with regard to unfinished or postponed business as opposed to new business.

"Rule 6, as recommended, provides that the function of bringing matters to the attention of the representatives on the Council shall be vested in the Secretary-General and makes the exercise of this function mandatory.

"The Council is protected from being confronted with matters of which the representatives have not been notified. This is effected by rule 7, which clearly specifies the category of matters which may appear on a provisional agenda.

"In the course of discussion in the Committee, it became apparent that there existed no clear definition of the term 'agenda'. On the one hand, it was

suggested that 'agenda' applied to the list of matters to be dealt with by the Council at a specified meeting. On the other hand, the opinion was expressed that this term might also apply to all matters which remained before the Council.²

"After careful consideration, it was decided that the term 'provisional agenda' should apply only to the list of matters suggested for the consideration of the Council at a specific meeting. For the convenience of the members of the Security Council, a summary statement of all matters of which the Council is seized shall be circulated weekly by the Secretary-General.

"The Committee has also sought to ensure that, unless the Council should specifically decide otherwise, items of unfinished business shall automatically appear on the agenda of the subsequent meeting. The term 'agenda' in rule 10 is used here advisedly. This rule means that the continued consideration of such business as is left over from one meeting shall constitute part of the agenda of the succeeding meeting.

"Naturally these items on the provisional agenda of a meeting shall not again be subject to debate

² See statement of 18 March 1946, submitted by the Secretariat to the Committee of Experts. S/12, O.R., 1st year, 1st series, Suppl. No. 2, pp. 8-10. See also 3rd meeting: pp. 29-30 for references to the "continuing agenda" and the "specific agenda".

¹ 31st meeting: pp. 101-102.

in connexion with the adoption of the agenda for that meeting. It was the view of the Committee that it should be left to the Secretary-General, in drawing up the provisional agenda of a meeting, to indicate, on the one hand, new matters brought to the attention of the Council under rule 6 and, on the other, matters which have been left over from the previous meeting or which the Council previously decided to consider at that meeting.

"With respect to the term 'provisional agenda' in rule 12 regarding periodic meetings, it is the opinion of the Committee that the term refers to all the sessions of a periodic meeting. The Council might find it necessary to meet several times in the course of a periodic meeting, and the adoption of the provisional agenda for a periodic meeting therefore covers all the separate sessions until the periodic meeting in question comes to an end."

The representative of the United States stated:

"I have a comment that I might make at this time relative to rule 11. We find these words, '... matters of which the Security Council is seized...'. I think our legal authorities fully understand the meaning of the word 'seized', but to avoid any possible misunderstanding in translation into many languages and to be very sure that the members of the Council place the same interpretation on this phrase as our Committee of Experts did, I should like to read what I interpret 'is seized' to mean, which is as

follows: '... matters which have been on the agenda of previous meetings and have not been finally disposed of by the Security Council'."

The Chairman of the Committee of Experts stated in reply:³

"The remarks which I should like to make... have been, in essence, already said by Mr. Stettinius... Rule 11 concerns itself exclusively with matters on which the Council has already acted. In other words, the verb 'is seized' is used in order to avoid the very ambiguous term 'agenda'. We have had experience in having to distinguish between the two kinds of agenda: agenda for a particular meeting and the continuing agenda of the Council which may be valid for some time. The expression 'is seized' is intended to cover the latter case.

"It is not the wish of the Committee of Experts, I presume, that matters which have not come up for consideration by the Council should be put in the summary statement. This point has already been met by the provision requiring the Secretary-General to communicate matters to the representatives on the Security Council as provided for in rule 6.

"So, in order to preserve the integrity of rule 11, and with the understanding that this case is covered by rule 6, I should like to voice the opinion of the Committee of Experts that the present text should be maintained."

³ 31st meeting: pp. 109-110.

Part II

THE PROVISIONAL AGENDA

NOTE

By the provisions of rule 6, the Secretary-General is under an obligation to "bring to the attention of all representatives on the Security Council all communications from States, organs of the United Nations, or the Secretary-General concerning any matter for the consideration of the Security Council in accordance with the provisions of the Charter". Effect is normally given to this rule by the distribution of communications as documents in the S/ series.¹ When the Secretary-General has been in doubt whether a communication came under the definition given in rule 6, he has either decided not to circulate a communication as a document² or has circulated the communication with a prefatory note stating that his action was not expressly in accordance with the terms of rule 6.³ Certain communications originating from sources other than those described in rule 6 have also been circulated as documents in the S/ series on the basis of Article 54 of the Charter.⁴ Certain matters have been brought to the attention of the Security Council through the medium of the S/ series and, though not placed on

the provisional agenda, have been included in the Report of the Security Council to the General Assembly.

Rule 7 entrusts the drawing up of the provisional agenda for each meeting to the Secretary-General, subject to the approval of the President of the Security Council. The Secretary-General's discretion with respect to the inclusion of new items is restricted to those items which have been brought to the attention of the Council under rule 6. In addition to the express provisions of rule 7, the Secretary-General has also taken into account whether a specific request to include the item has been made. Pursuant to rule 9, the first item on every provisional agenda is the adoption of the agenda. It is during the discussion relating to the adoption of the agenda that views are expressed with respect to the provisional agenda prepared by the Secretary-General. The order of other items appearing on the provisional agenda usually depends on the stage of consideration reached at the previous meeting and the urgency of new communications. In any event, it is for the Council to decide the order of items on its agenda, which need not coincide with the order of items as contained in the provisional agenda. Items on the provisional agenda other than item 1 are generally described either by the title of the relevant document, by a brief heading covering the subject matter followed by the title of the relevant document as a sub-heading, by a title which has been specifically requested, or by a title which has been previously approved by the Council. The wording of items on the agenda is also a matter for final approval by the Security Council itself. If several communications

¹ A list of documents in the S/ series through 1949 is to be found in the Check List of United Nations documents, Part 2, No. 1. Lists of documents issued since 1949 may be found in the supplements to the Official Records of the Security Council.

² See *O.R.*, 3rd year, *Suppl. for Jan., Feb. and Mar. 1948*, pp. 31-34 in connexion with the letter from Mr. Jan Papanek concerning the Czechoslovak question.

³ See Cases 2 and 3.

⁴ Communications from the Organization of American States and the Inter-American Commission for Peace have been distributed as documents in the S/ series whenever received.

relate to one question, the proposed agenda item is usually followed by sub-items corresponding to the individual communications.

The practice of the Secretary-General with regard to the circulation of communications, and of the Secretary-General and of the President of the Council with regard to the preparation of the provisional agenda, is only in small degree reflected in the Official Records of the Council. The cases entered in respect of rule 7 comprise instances in which a question has been raised on the adoption of the agenda directly relating to the discharge by the President or Secretary-General of their duties under this rule. Reference should also be made to other sections in which the proceedings on adoption of the agenda bear on the preparation of the provisional agenda, viz.: in respect of the mandatory character of rule 10;⁵ the effect of rule 10 as regards the order of items;⁶ the phrasing of items on the agenda.⁷

A. RULE 6: CIRCULATION OF COMMUNICATIONS BY THE SECRETARY-GENERAL

CASE 2

Three communications on the Hyderabad question, dated 21 August, 12 September and 13 September 1948, were circulated by the Secretary-General with the following prefatory note:⁸

"The Secretary-General, not being in a position to determine whether he is required by the rules of procedure to circulate this communication, brings it to the attention of the Security Council, for such action as the Security Council may desire to take."

These communications were received prior to the decision of the Security Council, at the 357th meeting on 16 September 1948, to include the Hyderabad question in the agenda. Following this decision, subsequent communications did not contain this note.

CASE 3

On 10 February 1949, the following note was included as an introduction to a communication received from the Democratic People's Republic of Korea:

"In view of the General Assembly resolution [195 (III)] of 12 December 1948, paragraph 2, the Secretary-General is circulating the following communication for the convenience of the members of the Security Council which may desire to be informed of it and not in the application of rule 6 of the provisional rules of procedure of the Security Council."

The communication was placed on the provisional agenda at the 409th meeting on 15 February 1949 at the request of the representative of the USSR.⁹

B. RULE 7: PREPARATION OF THE PROVISIONAL AGENDA¹⁰

CASE 4

At the 136th meeting on 22 May 1947, item 2 of the provisional agenda was the letter of 7 May 1947

⁵ See Cases 53, 54, 55.

⁶ See Cases 38, 39.

⁷ See Cases 47, 49.

⁸ S/986, S/998, S/1000, O.R., 3rd year, Suppl. for Sept. 1948, pp. 5, 6.

⁹ S/1247, 409th meeting: pp. 12, 18; S/1256, 409th meeting: pp. 14-15.

¹⁰ Reference should also be made to Cases 38, 39, 54 and 55 for material concerning rule 10 in relation to the preparation of the provisional agenda.

regarding the application of Italy for membership in the United Nations. The representative of Australia objected that the application "should not be entertained by the Council". At that stage, the representative of Syria replied that applications received by the Secretary-General should be referred to the Security Council and ought to be put on the agenda. The Secretary-General "cannot by himself decide on the acceptance or non-acceptance of such an application".

Decision: *The Council adopted the agenda without change.*¹¹

CASE 5

At the 382nd meeting on 25 November 1948, the provisional agenda contained the Hyderabad question as item 2 and the India-Pakistan question as item 3. On the representative of Canada proposing to reverse the order of those two items, the President (Argentina) informed the members of the Council that "the Secretariat, in agreement with the President, prepared the agenda for today's meeting in the chronological order in which the documents on the questions were submitted".

Decision: *As there were no objections, the Council reversed the order of the items on the provisional agenda.*¹²

CASE 6

At the 492nd meeting on 29 August 1950, the representative of the United States stated:¹³

"... My question is whether, since this preliminary paper is still within the jurisdiction of the President—and I think it continues to be within his jurisdiction until the Security Council acts upon it—the President would find it wise and convenient to change paragraph 3 of the provisional agenda which now reads as follows:

'Statement of the Central People's Government of the People's Republic of China concerning armed invasion of the territory of China by the Government of the United States of America and concerning violations of the Charter of the United Nations.'

"Would the President be willing to substitute for that wording in the provisional agenda to be considered by the Security Council, the language: 'Complaint regarding Formosa'?"

The President (USSR) replied:¹⁴

"The item on the agenda was worded in accordance with the contents of the statement received from the Central People's Government of the People's Republic of China... It is naturally for the Security Council to decide whether to adopt the agenda in its present form of words or in the form proposed by the United States representative. The President presumes that the best way to decide this question is to decide it by a vote."

Decision: *The item was changed to read "Complaint of armed invasion of Taiwan (Formosa)" by 7 votes in favour, 2 against, with 1 abstention and 1 member not participating in the vote.*¹⁵

CASE 7

At the 492nd meeting on 29 August 1950, the President, as representative of the USSR, proposed the

¹¹ 136th meeting: pp. 888-889.

¹² 382nd meeting: pp. 1-2.

¹³ 492nd meeting: p. 2.

¹⁴ 492nd meeting: p. 2.

¹⁵ 492nd meeting: pp. 11-12.

inclusion in the agenda of a new item. On objection being raised to its inclusion in the agenda of that meeting on grounds of inadequate notice, the President stated:

"If there are no objections or observations, this question will be included in the provisional agenda of the next meeting of the Security Council."

The representative of the United States stated:

"The provisional agenda is entirely in the hands of the President. The Security Council has no business making an agreement about what will be in the provisional agenda. If the remarks of the President mean that he will exercise his office and put the question on the provisional agenda, that amounts to nothing but a notice. That is fair enough. It leaves us, the Security Council, with our power to decide on the provisional agenda in the usual way."

The President replied that he would do that.¹⁶

CASE 8

At the 525th meeting on 27 November 1950, the provisional agenda consisted of the following item:

"2. (a) Complaint of armed invasion of Taiwan (Formosa).

(b) Complaint of aggression upon the Republic of Korea."

The President (Yugoslavia) explained that he had combined the two items as a single item with a view to their discussion together. Objection was raised by the representative of the USSR.¹⁷

Decision: *The Council rejected, by 1 vote in favour, 7 against and 3 abstentions, the proposal of the USSR to separate the two items, and adopted the agenda as submitted.*¹⁸

C. RULE 8: COMMUNICATION OF THE PROVISIONAL AGENDA¹⁹

CASE 9

At the 356th meeting on 30 August 1948, the provisional agenda contained three items: item 2, on the India-Pakistan question, concerning a message from the Chairman of UNCIP,²⁰ and item 3, on the Palestine question, concerning a cablegram from the Israeli Minister of Foreign Affairs.²¹

Objection was raised by the representative of the United States to the consideration of these items on

¹⁶ 492nd meeting: pp. 13-14.

¹⁷ For texts of relevant statements see: 525th meeting: President (Yugoslavia), pp. 1-2; India, p. 14; USSR, pp. 1-6, 12-14, 17; United Kingdom, pp. 10-12; United States, pp. 7-10, 16.

¹⁸ 525th meeting: p. 19.

¹⁹ For cases of communication of the agenda "in urgent circumstances", see 171st meeting, p. 1617; 473rd meeting, p. 1; 531st meeting, pp. 7-8.

Reference should also be made to rule 26. For the adjournment of a meeting before adoption of the agenda owing to lack of three days' advance communication of relevant documentation, see 454th meeting, pp. 1-4.

For decision to defer adoption of an item on the provisional agenda owing to lack of three days' notice, while adopting other items, see 90th meeting, pp. 22-24.

²⁰ S/987, O.R., 3rd year, Suppl. for Aug. 1948, p. 164.

²¹ S/985, O.R., 3rd year, Suppl. for Aug. 1948, pp. 163-164.

the grounds that members of the Council had agreed that no further meetings would be held in New York unless an emergency arose; the items in question could not, he contended, be deemed to constitute an emergency. The President (USSR) replied that the meeting was necessary to obtain an exchange of views in the Council on the points raised. Objection was also raised by the representatives of Syria and Belgium on the grounds that it was inexpedient for the Security Council to reply to the questions raised in the cablegram from Israel. After further discussion, the President stated that the exchange of views had indicated the position of "a number of members of the Security Council" that the communications in question should be filed without being answered.

"Thus, in discussing the provisional agenda, we have touched on the very substance of the question, and have exchanged views on it, and that was in fact what was required in connexion with these two questions."

Decision: *The Council rejected the proposal to adopt the agenda by 2 votes in favour and 9 abstentions.*²²

CASE 10

At the 365th meeting on 14 October 1948, the representative of Syria objected to the adoption of the agenda on the grounds that notice of the meeting had been received the previous evening, without any indication of the agenda. He expressed the view that no emergency had arisen to justify recourse to rule 8. The President (United States) indicated that he had, within the letter and the spirit of rule 8, taken the opportunity of a suspension of meetings of the First Committee to call a meeting of the Security Council for certain pressing business. The representative of the USSR observed that, contrary to the usual practice, no indication was given in the provisional agenda of the documents to be discussed.

Decision: *The Council adopted the agenda by 8 votes in favour and 3 abstentions.*²³

CASE 11

At the 521st meeting on 10 November 1950, the "Complaint of aggression upon the Republic of Korea" constituted item 3 of the provisional agenda. The representative of the USSR proposed that item 3, which had not been included in the provisional agenda circulated three days before the meeting, should not be included in "the agenda of today's meeting". He considered that rule 2 of the rules of procedure concerned only the calling of a meeting and could not justify the addition of questions to the provisional agenda. The President (Yugoslavia) ruled:

"In my view rule 2 of the rules of procedure, taken together with Chapter II of those rules and in particular with rule 8, which deals with urgent circumstances, cannot be interpreted otherwise than as defining the duty of the President to place on the provisional agenda of a meeting already called

²² For texts of relevant statements see: 356th meeting: Belgium, p. 3; Syria, pp. 2, 7-8; USSR, pp. 5-7; United Kingdom, p. 5; United States, pp. 3-5.

²³ For texts of relevant statements see: 365th meeting: President (United States), p. 2; Syria, pp. 1-2; USSR, p. 3.

any matter which a member of the Council requests him to place there as a matter of urgency."²⁴

²⁴ For texts of relevant statements see: 521st meeting: President (Yugoslavia), pp. 2, 11-12; France, p. 2; India, pp. 12-13; USSR, pp. 4-11; United Kingdom, pp. 13-14.

Decision: The Council rejected the USSR amendment to delete item 3 from the agenda by 1 vote in favour and 10 against.²⁵

²⁵ 521st meeting: p. 15.

Part III

ADOPTION OF THE AGENDA (RULE 9)

NOTE

By rule 9 of the provisional rules of procedure, the first item of the provisional agenda for each meeting of the Security Council is the adoption of the agenda.¹ It has been the practice of the Council to adopt the agenda without vote, either with or without amendments to the provisional agenda, unless an objection has been raised.² Where the Council has adopted the agenda without a vote, no unusual features are presented, and it has, therefore, not been deemed profitable to catalogue all the numerous occasions on which no objection has been raised.

Part III is therefore devoted to the proceedings of the Council on those occasions on which objection has been raised to the adoption of the agenda. Section A deals with the manner in which the Council has taken decisions on the objections raised. The material is first presented in tabulated form. The decision of the Council has at times been taken by vote on the provisional agenda as a whole or on individual items therein, and at times by vote first on amendments to the provisional agenda followed by a decision of the Council, with or without vote, on the provisional agenda as amended. The information is provided as to the occasions on which the Council, in voting on items in the provisional agenda, voted on the proposal to include, and those on which it voted to delete, the item; and, in connexion with votes on the adoption of the agenda as a whole, the instances of votes on the proposal to adopt are distinguished from the instances of votes on the proposal not to adopt.

The tabulation is followed by selected entries of discussion in the Council on the procedure of voting on adoption of the agenda. The question of the adoption of the agenda has on no occasion been regarded

¹ Meetings of the Security Council on the same question held in the morning and in the afternoon have been considered to be separate meetings, but the agenda of the first meeting may be automatically applied to the second, and the Council may dispense with the formality of adopting the same agenda twice on the same day. (26th meeting: p. 22; 56th meeting: p. 98.) See also 289th meeting: p. 36, in connexion with the India-Pakistan question when the Security Council decided "to adjourn for a half hour and return at 2 o'clock". At the 290th meeting held that afternoon the agenda was that of the 289th meeting, document S/Agenda 289/Rev.1, and discussion of the India-Pakistan question was continued.

² See for example, (a) 90th meeting: p. 24. The representative of the USSR proposed to defer the adoption of item 4 of the provisional agenda concerning the first report of the Atomic Energy Commission to the Security Council. There being no objection to the proposal, the agenda with the exception of item 4, which was deferred to a later meeting, was adopted without vote. (b) 504th meeting: pp. 2-3. At the beginning of the meeting, called at the request of the USSR, the representative of the USSR asked for the item "Complaint of aggression upon the Republic of Korea" to be added to the provisional agenda. There being no objection to the request, the provisional agenda was adopted as amended, without vote.

by the Security Council as other than a procedural matter.³ The cases also bear on the question whether an objection to the provisional agenda should be voted on as an amendment in accordance with rule 33, para. 1 (6).⁴

Section B presents case histories of the discussion in the Council when objection has been raised to the adoption of the agenda on grounds connected with the substance of the item on the provisional agenda. The case histories are not concerned with the grounds of objection, which are, however, briefly indicated; these grounds are stated more fully elsewhere in the *Repertoire*, notably in chapter X in connexion with Article 33 and in chapter XII in connexion with Articles 2 (7) and 106. The case histories in section B relate to the procedural aspects of such discussion at the stage of adoption of the agenda. The material is divided under two heads: firstly, consideration of requirements for the inclusion of an item in the agenda; and, secondly, the effect of the inclusion of an item in the agenda. Material from the same episode in the proceedings of the Council is entered under the one or other heading according to its bearing; but the eventual decision of the Council is recorded but once in one or the other sub-section. This arrangement of the material has seemed the more appropriate in that any conclusions from the evidence so afforded must be derived rather from the trend of the observations than from the decisions; and the significance of the observations can be the more readily appreciated when grouped under the two headings.

Material under the first heading relates mainly to considerations of form connected with the right of Members of the United Nations to submit questions to the Security Council. Where the view has been stressed that the submission of questions to the Security Council constitutes a right of Members of the United Nations under Article 35, this view has necessarily been accompanied by the contention that the Council should either dispense with requirements of form or set only minimum requirements in order not to infringe the right of submission.⁵ Dispensation with stringent requirements for the inclusion of an item in the agenda has also been urged on other grounds: namely, that since consideration of objection to the inclusion of an item on grounds of lack of competence results in extensive discussion of that question or of the merits before the adoption of the agenda, it is more appropriate and expedient to place the question on the agenda first.

³ See chapter IV, Cases 1-10.

⁴ See Case 13 in which this point was expressly raised.

⁵ For a suggestion by the representative of the Netherlands for the preliminary examinations of complaints by a committee of three rapporteurs before inclusion in the agenda, see 67th meeting: p. 326; 72nd meeting: p. 460.

In the second part of section B are entered observations on the significance of the inclusion of an item in the agenda—whether adoption of the agenda constitutes a judgment on the merits of the case, on the competence of the Security Council, or on the juridical status of the parties.

Other questions of procedure arising on adoption of the agenda are dealt with in section C. The provisional agenda in relation to the order of discussion of items is first dealt with; under this heading material is included relating to the bearing of rule 10 on priority in the discussion of items. Next is included material derived from proceedings on adoption of the agenda relating to the latitude of discussion on items of the agenda. The material in the third sub-section relates to considerations of form in the phrasing of agenda items. The fourth sub-section covers case histories of the postponement of the consideration of items at the stage of adoption of the agenda.

Matters relating to the ordering of the business of the Council have also on occasion been raised at this stage of the meeting of the Council.

A. PROCEDURE OF VOTING ON ADOPTION OF THE AGENDA

1. Votes taken concerning individual items in the provisional agenda

When objection has been raised to the inclusion in the agenda of an item on the provisional agenda, the vote has been taken in one of three ways:

(i) On the proposal to include the item in the agenda

25th meeting, 26 March 1946; item 4: voted upon at the 26th meeting, 26 March 1946.⁶

54th meeting, 28 August 1946; item 3: voted upon at the 59th meeting, 3 September 1946.⁷

72nd meeting, 24 September 1946; item 2.⁸

132nd meeting, 30 April 1947; item 2.⁹

143rd meeting, 20 June 1947; item 2, and item 3.¹⁰

154th meeting, 10 July 1947; item 2.¹¹

327th meeting, 25 June 1948; item 3.¹²

357th meeting, 16 September 1948; item 2.¹³

482nd meeting, 3 August 1950; item 2, and item 3.¹⁴

493rd meeting, 31 August 1950; item 4, and item 5.¹⁵

502nd meeting, 18 September 1950; item 2.¹⁶

(ii) On the proposal to delete the item from the provisional agenda

25th meeting, 26 March 1946; item 4: voted upon at the 26th meeting, 26 March 1946.¹⁷

384th meeting, 15 December 1948; item 3.¹⁸

409th meeting, 15 February 1949; item 2.¹⁹
521st meeting, 10 November 1950; item 3.²⁰
525th meeting, 27 November 1950; item 2 (b).²¹

In these instances above under (i) and (ii), with the exception of the 26th meeting, the agenda was adopted without vote after the vote on the individual item. In certain cases the vote has been taken directly on the adoption of the agenda as a whole.

(iii) On the adoption of the agenda as a whole and not on the individual item

95th meeting, 20 January 1947; objection to item 5.²²

224th meeting, 19 December 1947; objection to item 4.²³

268th meeting, 17 March 1948; objection to item 2.²⁴

In other instances, the vote has been taken as follows:

2. Votes taken on proposals to include in the agenda items not on the provisional agenda

352nd meeting, 18 August 1948.²⁵

383rd meeting, 2 December 1948.²⁶

386th meeting, 17 December 1948.²⁷

482nd meeting, 3 August 1950.²⁸

503rd meeting, 26 September 1950.²⁹

3. Votes taken on proposals to change the order of items

351st meeting, 18 August 1948.³⁰

439th meeting, 7 September 1949.³¹

462nd meeting, 17 January 1950.³²

521st meeting, 10 November 1950.³³

568th meeting, 18 December 1951.³⁴

4. Votes taken on proposals to combine two or more items as a single item

568th meeting, 18 December 1951.³⁴

In the instances under 2, 3 and 4 above, the agenda was subsequently adopted without vote, with the exception of the 568th meeting.

5. Votes taken on the adoption of the agenda as a whole

(i) On the proposal that the agenda be adopted

356th meeting, 30 August 1948.³⁵

365th meeting, 14 October 1948.³⁶

427th meeting, 16 June 1949.³⁷

568th meeting, 18 December 1951.³⁸

¹⁹ P. 3.

²⁰ P. 15. See Case 15.

²¹ P. 19.

²² P. 117.

²³ P. 2796.

²⁴ P. 101.

²⁵ P. 2.

²⁶ P. 7.

²⁷ P. 23.

²⁸ P. 20. See Case 13.

²⁹ Pp. 15, 23.

³⁰ Pp. 1-2.

³¹ P. 5.

³² P. 3.

³³ P. 15.

³⁴ P. 15.

³⁵ P. 10. See Case 12.

³⁶ P. 4.

³⁷ P. 10. See Case 10.

³⁸ P. 16. After rejection of two amendments.

⁶ P. 27. The item was voted upon first as an amendment to the provisional agenda. After the rejection of this proposal, the Council voted to include the item in the agenda.

⁷ P. 197.

⁸ P. 460. See Case 18.

⁹ P. 820.

¹⁰ P. 1052.

¹¹ P. 1260.

¹² P. 9.

¹³ P. 11.

¹⁴ Pp. 22-23.

¹⁵ P. 30.

¹⁶ P. 14. See Case 14.

¹⁷ P. 27.

¹⁸ P. 4.

(ii) *On the proposal that the agenda be not adopted*
519th meeting, 8 November 1950.³⁹

CASE 12

At the 356th meeting on 30 August 1948, when objection was raised to the adoption of the agenda, the President (USSR) requested the members "in favour of not considering these questions at today's meeting" to raise their hands.

The representative of the United Kingdom had stated that:

"... when the question comes to a vote, it is the adoption of the provisional agenda, and not its non-adoption, that must receive seven affirmative votes."

The representative of Syria reiterated this view. He observed:⁴⁰

"According to our rules of procedure, the first point to be discussed is the adoption of the agenda. To turn this question about and vote on it in a negative manner is not correct."

The President indicated that he would put to the vote the adoption of the agenda.

Decision: *The Council rejected the proposal to adopt the agenda by 2 votes in favour and 9 abstentions.*⁴¹

CASE 13

At the 480th meeting on 1 August 1950, the provisional agenda contained as item 2, "Recognition of the representative of the Central People's Government of the People's Republic of China as the representative of China", and as item 3, "Peaceful settlement of the Korean question".

The representative of the United States introduced an amendment to the provisional agenda providing that the item following "Adoption of the Agenda" should be "Complaint of aggression upon the Republic of Korea", which did not appear on the provisional agenda. He stated:

"There were several reasons for putting this motion in writing in addition to the oral motion which I made previously. One reason was in order to make it perfectly clear exactly what the motion is, namely, an amendment proposed to the provisional agenda. The reason why I want to make that clear is in order to have a ruling under rule 33 of our provisional rules of procedure..."

"Another reason why this was put into writing was to make it perfectly clear that it cannot be confused with the items on the provisional agenda which are now numbered 2 and 3. It is distinct and separate from those items. Those items, of course, cannot be voted upon first because the provisional agenda has not been adopted. The provisional agenda cannot be adopted until we have disposed of the proposed amendment."

The President (USSR) replied:

"Up to the present, ... the agenda has always been approved by the President in accordance with

the rules of procedure and submitted for adoption by the Security Council. Never in the history of the Security Council have any amendments been submitted to the provisional agenda as approved by the President and submitted for adoption by the Security Council. The Security Council is free to adopt or reject the provisional agenda approved by the President. But to submit an amendment to the provisional agenda thus approved by the President, as the representative of the United States is trying to do, in violation of the rules of procedure, is to usurp the rights of the President and to do violence to the rules of procedure."

At the 482nd meeting on 3 August 1950, the representative of the United Kingdom drew attention to the precedent of the 352nd meeting as contrary to the President's statement.

The President ruled that the items would be voted upon in the order in which they had been submitted, the United States amendment being put to the vote after a decision had been taken on items 2 and 3.⁴²

Decision: *The President's ruling was challenged. The Council rejected the ruling by 2 votes in favour, 7 against and 2 abstentions.*

The United States amendment was then adopted by 7 votes in favour, 1 against and 2 abstentions.

Item 2 of the provisional agenda was rejected by 5 votes in favour, 5 against and 1 abstention.

Item 3 was rejected by 3 votes in favour, 7 against and 1 abstention.

*The President stated that "as a result of the voting, the agenda comprises a single item". Speaking as the representative of the USSR, he declared that "my delegation considers this decision of the Security Council illegal".*⁴³

CASE 14

At the 502nd meeting on 18 September 1950, the representative of the USSR objected to the inclusion of item 2, "Complaint of aggression upon the Republic of Korea".

The President (United Kingdom) asked those in favour of the adoption of the agenda to raise their hands. The representative of China objected, as a point of order, that the President should put to the Council the omission of item 2. The President replied:

"Recent precedent suggests that it would be preferable to put this question in the positive form, that is, who is in favour of including item 2 on the agenda."

The representative of the USSR concurred that such was the practice. The representative of China explained the grounds of his objection to the procedure. The President ruled that he would put the question to the vote in the positive form which he had in-

³⁹ For texts of relevant statements see:

480th meeting: President (USSR), pp. 12, 15-16; United States, pp. 12-13.

481st meeting: President (USSR), pp. 1-2, 5, 17-18; China, p. 16; Cuba, pp. 12-13; Ecuador, pp. 10-11; France, pp. 11-12; Norway, pp. 13-14; United Kingdom, pp. 2-5; United States, pp. 14-15.

482nd meeting: President (USSR), pp. 18, 19-20; Egypt, pp. 12, 19; India, pp. 10-12; United Kingdom, pp. 1-2, 18-19, 21-22; United States, pp. 13-15; Yugoslavia, p. 17.

⁴⁰ 482nd meeting: pp. 19-20, 22-23.

³⁹ P. 6.

⁴⁰ For texts of relevant statements see: 356th meeting: President (USSR), pp. 7, 8; Canada, pp. 8-9; Syria, pp. 7-8; United Kingdom, p. 5.

⁴¹ 356th meeting: p. 10.

icated. The ruling was not challenged, and the President so proceeded.⁴⁴

CASE 15

At the 521st meeting on 10 November 1950, after the representative of France had proposed that the order of items 2 and 3 should be reversed, the representative of the USSR proposed that item 3 of the provisional agenda should not be included in the agenda. Before the President (Yugoslavia) put the proposal to the vote, the representative of the USSR made the following statement:

"I did not propose that item 3 should be deleted from the agenda because it has not yet been included in the agenda. We are now discussing the provisional agenda. I therefore propose that this item should not be included in the agenda of today's meeting and that it should not be discussed at this meeting."

The President replied:

"...I shall ask the Council to decide on the amendment submitted by the USSR representative which in his opinion requests us not to include item 3 in the definitive agenda and which I interpret to mean the deletion of item 3 from the provisional agenda."

Decision: *The Council rejected the USSR proposal by 1 vote in favour and 10 against. The French amendment was adopted by 9 votes in favour, 1 abstention and 1 member of the Council not participating in the vote.*⁴⁵

B. CONSIDERATION OF

1. Requirements for the inclusion of an item in the agenda

CASE 16

At the 25th meeting on 26 March 1946, the provisional agenda included the letter dated 18 March 1946 from the representative of Iran bringing to the attention of the Security Council, under Article 35 (1), a dispute between Iran and the USSR. The representative of the USSR proposed that the question raised by the Iranian representative should not be included in the agenda. He maintained that negotiations had been undertaken between the two Governments, in accordance with the Council's resolution of 30 January 1946, and that an understanding had been reached. In his opinion the inclusion of the item in the agenda would be contrary to the facts and reality and would contradict the meaning and the spirit of that resolution. The representative of the United States observed:

"All that is contemplated now is the adoption of an agenda which would give to the Iranian Government an opportunity to present facts which in the opinion of that Government constitute a threat to international peace. Surely the Council cannot deny to any Member of the United Nations the opportunity to present a request of that kind, filed in complete accord with the provisions of the Charter."

⁴⁴ For texts of relevant statements see: 502nd meeting: President (United Kingdom), p. 9; China, pp. 11, 13; USSR, pp. 12, 13, 14. A similar statement was made by the President (Syria) at the 327th meeting on 25 June 1948, p. 6.

⁴⁵ 521st meeting: pp. 14-15.

The representative of Poland expressed the view that the inclusion of the item in the agenda would imply non-recognition of the statement of the representative of the USSR that the causes for dispute had disappeared. He proposed that the Council "drop the issue from the agenda of this particular meeting," while the matter should remain, in accordance with the resolution of 30 January 1946, on the list of matters of which the Council was seized.

The representative of the Netherlands, supported by the representative of Mexico, stated:

"That which is now before us is not a question of substance; it is simply a question which I think in French is called *la question préalable*—the preliminary question—whether or not the Iranian case is to be put on the agenda. That is all."

The representative of the USSR observed:

"There is no justification for considering that the situation which has existed and now exists in Iran is fraught with complications likely to lead to the violation of international peace and security . . . If that is so . . . there are no grounds for including the question raised by him in the Security Council's agenda."

"I should like to remind the members of the Council that up to the present the Security Council has received a number of letters and communications which it has not thought possible or found advisable to include in the agenda for consideration. The Security Council may receive such communications in the future. The Council cannot admit all kinds of communications for consideration, but only those which ought to be considered in virtue of the pertinent provisions of the Organization's Charter."⁴⁶

Decision: *At the 26th meeting on 26 March 1946, the proposal of the representative of the USSR to delete the item was voted upon as an amendment to the provisional agenda, and was rejected by 2 votes in favour and 9 against. The Council then decided to include the item in the agenda, by 9 votes in favour to 2 against.*⁴⁷

CASE 17

At the 54th meeting on 28 August 1946, the communication from the Ukrainian SSR dated 24 August 1946 regarding Greece⁴⁸ constituted item 3 of the provisional agenda. The representative of the Netherlands objected to its inclusion in the agenda in the form in which it had been presented. It was, he contended, a series of unsubstantiated accusations. He added:

"The Council must . . . before admitting a matter on the agenda begin by satisfying itself that there is sufficient *prima facie* evidence that the matter to which attention is called is a serious and genuine difficulty . . ."

"The admission of an item on the agenda is by no means automatic or an empty formality."

" . . . I submit that any state which comes here should show to our satisfaction, in its submission, that on the face of it, the case deserves to be heard."

⁴⁶ For texts of relevant statements see: 25th meeting: Mexico, p. 19; Netherlands, pp. 18-19; Poland, pp. 17-18; USSR, pp. 12-13, 20; United States, p. 14.

⁴⁷ 25th meeting: p. 27.

⁴⁸ S/137, O.R., 1st year, 2nd series, Suppl. No. 5, pp. 149-151.

For that, some initial substantiation is plainly required . . .”

The representative of the United Kingdom associated himself with the view that the representative of the Ukrainian SSR should be asked to recast and to amplify his communication.

The representative of the USSR stated:

“The Council cannot evade the examination of this question since it is the obligation of the Security Council to examine questions of this kind . . .

“In order to ascertain whether a statement by any Government appealing to the Security Council is right or wrong, it is necessary to examine the statement . . .”

On the proposal of the President (Poland), the Council decided to adopt item 2 of the provisional agenda, and to postpone the adoption of item 3.

Consideration of the adoption of the item was resumed at the 58th meeting on 30 August 1946 and at the 59th meeting on 3 September 1946. At the 59th meeting the Council had before it a communication from the Minister of Foreign Affairs of the Ukrainian SSR dated 1 September 1946,⁴⁹ to the effect that the right to substantiate his complaint derived from Article 35 and rule 37, and from the established practice of the Council. The representative of the United States then urged that the complaint should be placed on the agenda; if the charges were not substantiated, the complaint should be dismissed after examination. He stated:

“The position of my Government has, consistently . . . been that the Council cannot deny to a Member of the United Nations who states that a condition exists which is likely to threaten international peace and security, the opportunity to present the case . . .

“My Government thinks, without prejudice to the merits of the complaint or even to the good faith behind the complaint, that the Council should place a minimum of technical requirements in the way of consideration of situations brought to its attention.

“ . . . In my opinion, the Council will be derelict in its duty if it does not examine the complaint and all that may be said and brought to substantiate the complaint . . .”

The representative of Mexico expressed the view that the adoption of the agenda in such cases was “just a matter of form”. He stated:

“I do not think that the Security Council has the right or even the power to decide whether or not to admit to this table a State that has presented for the consideration of the Council a situation governed by Article 35, with the requisites of Article 34, simply because that complaint does not fill certain requirements of form or even because the charges made have not been substantiated. I think that the Council is free and that it is within its power, once it has heard the complainant State, to dismiss the case, but it has no right to defer the consideration of that question by invoking requisites of form.”

The representative of France observed that the solution of refusing to place a question on the agenda was unsatisfactory.

⁴⁹ S/148, 59th meeting: pp. 173-175.

“ . . . it is somewhat of a contradiction to decide that a complaint is not sufficiently serious to be examined before having examined it . . .

“If it is objected that the claim is not properly presented, then judgment is being made purely on a basis of form, which is far from satisfactory.”⁵⁰

Decision: *The Council decided by 7 votes in favour, 2 against, with 2 abstentions, to include the communication of the Ukrainian SSR in the agenda.*⁵¹

CASE 18

At the 57th meeting on 29 August 1946, the representative of the USSR made a statement concerning the presence of Allied troops on non-enemy territory and proposed the collection of certain information relating thereto. The statement was placed on the provisional agenda of the 71st and 72nd meetings on 23 and 24 September 1946.

At the 71st meeting debate took place on the adoption of the agenda but was not concluded. At the 72nd meeting, which was to have continued the discussion of whether to include the item, the agenda was adopted without discussion at the beginning of the meeting. Nevertheless representatives continued to speak on the question of inclusion of the item in the agenda.

In his statement before the Security Council at the 71st meeting, the representative of the USSR contended that the question raised by him fell within the scope of Articles 34 and 35. At the following meeting, he observed that the USSR proposals contemplated the presentation to the Council of information as to the numbers and disposition of the forces of Allied Powers and location of military bases on the territory of the countries indicated. The Council had every right to demand such information. The representative of Poland supported the inclusion of the item. He stated at the 71st meeting:

“In our view, admission to the agenda is a purely procedural question. In any case we do not need to pass judgment on whether or not there is any situation such as described in Articles 34 and 35; this will be discussed after the item has been admitted to the agenda.”

At the 72nd meeting the representative of Poland added that a “fundamental right” of a Member of the United Nations was involved. This right was stated in Article 35. It would be a dangerous practice to allow a minority of five in the Council to suffice to defeat this right.

Objection to the inclusion of the matter in the agenda was raised by the representatives of the United Kingdom, Australia, the United States, the Netherlands, Brazil, Mexico and China.

The representative of Australia contended that, in acting in pursuance of Article 24 (2), the Council was required to “exercise specific functions in regard to specific matters”. The situation to which the representative of the USSR desired to draw attention was lacking in precision. He continued:

⁵⁰ For texts of relevant statements see:

54th meeting: President (Poland), pp. 35, 39; Netherlands, pp. 33-34; USSR, pp. 36-38; United Kingdom, p. 36.

59th meeting: Australia, pp. 195-196; France, p. 191; Mexico, p. 177; United States, pp. 175-176. See also Case 28 for statements on effect of inclusion in the agenda.

⁵¹ 59th meeting: p. 197.

"A situation of the kind described in Article 34 seems to us to be a particular situation, not a general world situation . . . Before we can make up our minds as to the admission of the item, we should get some fairly precise indication as to the whereabouts of that situation. By 'precise indication', I do not suggest at this stage that we should go into the merits of the case, but rather that we should be told exactly what spot the representative of the USSR has in mind which constitutes a danger to peace or a possible cause of friction."

The representative of the United States also contended that the situation described by the representative of the USSR was too vague and generalized to constitute a situation within the meaning of Chapter VI. The representatives of the Netherlands and Brazil associated themselves with these observations; the representative of the Netherlands indicated that he would oppose "placing on the agenda what is quite obviously an unreal case", and the representative of Brazil indicated that, while not questioning the right of members of the Council to request the inclusion of any matter in the agenda, it was for the Council "to decide whether or not such a matter deserved to be placed on the agenda".

The representative of France opposed the view that the situation outlined by the representative of the USSR failed to fall within the terms of Article 34.

He stated:

"I do not think that this Article ought to be understood only in the sense of a very definite and specific situation concerning a given country. It seems to me that a 'situation', in the sense of Article 34, may be a state of affairs which extends, as in the case before us, to several countries; or, shall we say, that it is not because the question raised by the USSR delegation is broader in scope than those which we usually examine, that it does not, for that reason, constitute a 'situation' and that, if it threatens the peace of the world, we ought to abstain from dealing with it. An excessively narrow interpretation of the Charter in regard to this matter would involve a dangerous limitation of the powers of the Security Council and would not in reality correspond to the duties incumbent upon us according to the terms of the Charter."

The representative of France questioned the validity of prejudging as "propaganda" a question brought before the Security Council, since it was not for the Council "to judge the motives from which a question might be brought before the Security Council". Only after a thorough study of the question would the Council "be able to say whether or not it constituted a threat to the peace". The real question before the Council was whether the examination of a question of the nature submitted by the representative of the USSR was really the best means of surmounting the difficulties involved. He continued, "The question of whether the problem at issue ought to appear on the agenda becomes a question not of procedure but essentially of advisability in the political sphere." The representative of Mexico also objected on the grounds that, in the political circumstances of the time, no useful purpose would be served by approving the USSR request, and the representative

of China considered that it would be neither wise nor prudent to take the matter up.⁵²

Decision: *At the 72nd meeting on 24 September 1946, the Council rejected the USSR proposal by 2 votes in favour, 7 against, and 2 abstentions.⁵³ After the voting the representative of Poland observed that his understanding was that the Council had voted, not on the proposal, but on its inclusion in the agenda.*

CASE 19

At the 95th meeting on 20 January 1947, item 5 of the provisional agenda was the letter from the representative of the United Kingdom concerning incidents in the Corfu Channel.⁵⁴ The representative of the USSR objected to the inclusion of the item in the agenda on the grounds that the requirements of Article 33 had not been observed and that no threat to the peace was involved. The representative of the United Kingdom denied these contentions.⁵⁵

Decision: *The Council adopted the agenda without change by 10 votes in favour and 1 abstention.⁵⁶*

CASE 20

At the 171st meeting on 31 July 1947, in connexion with the Indonesian question (II), the representative of Belgium stated with regard to the Australian and Indian communications:⁵⁷

"These communications represent an initiative taken by two States Members of the United Nations who invoke certain provisions of the Charter in their appeal to the Council. For this reason alone, these communications seem to be admissible and thus to qualify for inclusion in the Council's agenda."⁵⁸

CASE 21

At the 268th meeting on 17 March 1948, the letter dated 12 March 1948 from the representative of Chile relative to events in Czechoslovakia⁵⁹ constituted item 2 of the provisional agenda. The representative of the USSR objected to its inclusion in the agenda on grounds of competence, and on the grounds that the allegations were unfounded and slanderous.

The representative of France stated:

". . . and if it is contended, as the representative of the USSR contended a moment ago, that a complaint submitted to the Council has no facts to sup-

⁵² For texts of relevant statements see: 57th meeting: USSR, pp. 141-142.

⁵³ 71st meeting: Australia, p. 426; Brazil, pp. 441-442; Netherlands, p. 440; Poland, pp. 429, 450-451; USSR, pp. 437-438; United Kingdom, pp. 423-425; United States, pp. 427-428.

⁵⁴ 72nd meeting: Australia, pp. 453-454; China, pp. 449-450; France, pp. 444-448; Mexico, pp. 448-449; Netherlands, p. 460; USSR, pp. 458-459; United States, p. 452. See also Case 29 for statements on effect of inclusion in the agenda.

⁵⁵ 72nd meeting: p. 460.

⁵⁶ S/247, O.R., 2nd year, Suppl. No. 3, annex 8, p. 35.

⁵⁷ For texts of relevant statements see: 95th meeting: USSR, p. 115; United Kingdom, p. 116.

⁵⁸ 95th meeting: p. 117.

⁵⁹ S/449 and S/447, O.R., 2nd year, Suppl. No. 16, pp. 149-150.

⁶⁰ 171st meeting: p. 1617. See also Case 31 for statements on effect of inclusion in the agenda and decision.

⁶¹ S/694, O.R., 3rd year, Suppl. for Jan., Feb. and March 1948, pp. 31-34.

port it, we must still be able to examine it to find out whether or not that is really the case; to do that, we must first of all include it in the agenda."

The representative of Belgium stated:

"In submitting this question to the Council, the representative of Chile has exercised a right accorded to him by the Charter, and the Security Council is not at liberty to refuse to include such an item in the agenda, once it has established that the request is made by a State Member and is based on an Article of the Charter."

The representative of the USSR stated:

"... The United Nations Charter does not call for action on, or investigation of, all statements or all questions which even a State may bring before the United Nations."⁶⁰

CASE 22

At the 327th meeting on 25 June 1948, the provisional agenda included, as item 3, the Secretary-General's letter of 3 December 1947 drawing attention to General Assembly resolution 114 (II) of 17 November 1947, concerning relations of Members of the United Nations with Spain.⁶¹

The representative of Argentina objected to the inclusion of the item in the agenda on grounds of domestic jurisdiction. The representatives of the United Kingdom, United States and Canada expressed the view that consideration of the situation in Spain under the General Assembly resolution was not called for at that time. The representatives of the USSR and the Ukrainian SSR contended that the Council should discuss the matter to decide whether to adopt any decisions.⁶²

Decision: *The Council rejected the proposal to include the item in the agenda by 2 votes in favour, 1 against and 8 abstentions.*⁶³

CASE 23

At the 361st meeting on 4 October 1948, the identical notifications dated 29 September 1948,⁶⁴ constituted item 2 of the provisional agenda. In connexion with the objection raised by the representative of the USSR to their inclusion in the agenda, the representative of Belgium stated as a point of order:

"... The right of calling upon the Security Council is one of the rights of Member States under the terms of the Charter. When a Member State exercises that right, the Council is automatically seized of it. Consequently, the inclusion by the Council of the communications thus made on its agenda is merely a formality. The Council notes that the request in fact emanates from a Member State and

that, consequently, it has been seized of the matter in a regular fashion."

The representative of the USSR observed in reply:

"If rule 9 states that the first item on the provisional agenda for each meeting of the Security Council is the adoption of the agenda, this can mean only one thing, namely that the Security Council must discuss whether the agenda has been correctly drawn up, and whether certain questions should or should not be included on the agenda. If the agenda is correct it should be adopted; if it is incorrect, it should not; but the matter must first be discussed.

"What is involved in deciding whether or not certain questions should or should not be included in the agenda? It means taking a decision with regard to the reasons and grounds adduced in favour of the inclusion of certain items; or, on the other hand, rejecting the reasons put forward against the inclusion of these particular questions in the agenda."⁶⁵

At the 362nd meeting on 5 October 1948, the representative of France stated:

"First of all, I wish to make a reservation with respect to the point of view expressed by the representative of Belgium.

"Although we perhaps do not go as far as he does, and although we do not perhaps consider that every item we are asked to inscribe on the agenda should be inscribed thereon, my delegation has always felt and maintained that, once a discussion was undertaken on a question, it would have been normal for that question to have been first included on the agenda."⁶⁶

CASE 24

At the 492nd meeting on 29 August 1950, the statement by the People's Republic of China regarding armed invasion of Taiwan (Formosa)⁶⁷ constituted item 3 of the provisional agenda. The representative of China objected to the inclusion of the item. He observed:

"When a question is placed on the agenda of the Security Council, there must be at least some mild degree of a *prima facie* case. As regard this complaint, there is not even the flimsiest *prima facie* case."

He continued that his Government was in effective control of the island of Taiwan; that it knew of no aggression on the part of the United States, and had no complaint to make. The representative of the United Kingdom indicated that the People's Republic of China was in effective control of the greater part of China and that it had made a complaint against the United States Government, which had indicated that it would welcome consideration of the case by the United Nations. He concluded that the Council would "hardly be accomplishing its duty if it failed to place such a serious matter on its agenda". The representative of the USSR contended that the Council was required to consider the question arising from the statement by the People's Republic of China that "the United States Government

⁶⁰ For texts of relevant statements see: 268th meeting: Belgium, p. 100; Colombia, pp. 95-96; France, p. 98; Syria, p. 95; Ukrainian SSR, p. 96; USSR, pp. 90-93, 100; United Kingdom, pp. 93-94; United States, pp. 99-100. See also Case 32 for statements on effect of inclusion in the agenda and decision.

⁶¹ S/622.

⁶² For texts of relevant statements see: 327th meeting: Argentina, pp. 6-8; Canada, p. 8; Ukrainian SSR, pp. 4-6; USSR, pp. 2-3; United Kingdom, p. 4; United States, p. 4.

⁶³ 327th meeting: pp. 8-9.

⁶⁴ S/1020 and Add.1, O.R., 3rd year, Suppl. for Oct. 1948, pp. 9-45.

⁶⁵ For texts of relevant statements see: 361st meeting: Belgium, p. 16; USSR, p. 17. See also Case 34 for statements on effect of inclusion in the agenda and decision.

⁶⁶ 362nd meeting: pp. 1-2.

⁶⁷ S/1715, 490th meeting: pp. 9-10.

had committed an act of armed invasion of the territory of China".⁶⁸

Decision: *The Council included the item in the agenda, in the form proposed by the representative of India, by 7 votes in favour, 2 against, 1 abstention, and one member not participating in the vote.*⁶⁹

CASE 25

At the 493rd meeting on 31 August 1950, item 4 of the provisional agenda related to the complaint by the People's Republic of China concerning the air bombing of the territory of China.⁷⁰

The representative of China objected to the inclusion of the item in the agenda on the grounds that no *prima facie* case had been made. The representative of Cuba also opposed it, stating that the matter had been submitted for the purpose of propaganda. The President (USSR), as the representative of the USSR, urged that it was the duty of the Security Council to consider the complaint since it related to "an unprovoked act of aggression". The representative of the United Kingdom expressed the view that the Council should "look into this matter and try to establish the facts".⁷¹

Decision: *The Council decided by 8 votes in favour and 3 against to include the item in the agenda.*⁷²

CASE 26

At the 559th meeting on 1 October 1951, the provisional agenda included the item: "Complaint of failure by the Iranian Government to comply with provisional measures indicated by the International Court of Justice in the Anglo-Iranian Oil Company case", submitted by the representative of the United Kingdom in the letter dated 28 September 1951. The representatives of Yugoslavia and the USSR objected to the inclusion of the item in the agenda on grounds of domestic jurisdiction.

The representative of Ecuador, supported by the representative of Turkey, stated:

"If a Member of the United Nations submits a complaint regarding a situation or an action which in its view contains an inherent danger and may consequently threaten international peace and security, I do not see how the Security Council can refuse to include such a complaint in its agenda."

The representative of the United States observed:

"... Certainly it appears that there is a *prima facie* case to be presented to the Security Council; and if the Security Council is going to deny to the United Nations the right to consider this item on the agenda, it must be only after studying the item and reaching a decision after thorough consideration."

⁶⁸ For texts of relevant statements, see:

492nd meeting: China, p. 3; USSR, pp. 9-12; United Kingdom, pp. 8-9. See also Ecuador, 492nd meeting: p. 19; Cuba, 493rd meeting: p. 10. (For the modification of the text of the agenda item, see Case 48.)

⁶⁹ 492nd meeting: p. 12.

⁷⁰ S/1722, O.R., 5th year, Suppl. for June, July and August 1950, pp. 144-145.

⁷¹ For texts of relevant statements see:

493rd meeting: China, p. 7; Cuba, p. 11; Egypt, p. 2; USSR, pp. 5, 12-14; United Kingdom, p. 22.

⁷² 493rd meeting: p. 30.

The representative of China stated:

"... the representative of the United States... if I understood him correctly... seemed to say that this question may be a question of peace and security and that, since the Security Council has the primary responsibility in matters of peace and security, therefore the Security Council must put this matter on the agenda. That line of argument is not acceptable to my delegation. I do not regard this matter as being one of peace and security."⁷³

Decision: *The Council adopted the agenda by 9 votes in favour to 2 against.*⁷⁴

2. Effect of the inclusion of an item in the agenda

CASE 27

At the 2nd meeting on 25 January 1946, in connexion with the Iranian question, immediately after the President (Australia) had indicated that the letter dated 19 January 1946 from the Iranian Government and the letter dated 24 January 1946 from the USSR Government in reply to the Iranian communication had been included in the agenda of the Security Council, the representative of the USSR inquired:

"There is one point I would like to clarify: that is the inclusion of the Iranian question in the Security Council's agenda. Does this mean consideration of the substance of the question or discussion as to whether it should come before the Council at all?"

"If this item is placed on the agenda so that we may discuss whether the question should be considered, then I have no objection to its inclusion on the agenda for the next meeting. I should like to explain my reasons. The Soviet delegation, on the authority of the Soviet Government, has put forward reasons proving that the statement of the Iranian Government should not be considered by the Security Council.

"It therefore seems to me that we should, in the first place, thoroughly discuss this matter and, as the Chairman suggests, the Soviet delegation should in any case have the opportunity at the next meeting of putting forward its reasons why this question should not be considered by the Security Council." The President (Australia) ruled:

"In answer to the representative of the Union of Soviet Socialist Republics, I should like to say that the inclusion of the item in this agenda does give an opportunity for the Council to have a discussion, and that the USSR could, at the initial stage of that discussion, make such proposal as it might think proper. The inclusion would not deny to the USSR representative the opportunity of being able to move in whatever direction he might wish."⁷⁵

CASE 28

At the 59th meeting on 3 September 1946, before the vote on the inclusion in the agenda of the Ukrain-

⁷³ For texts of relevant statements see:

559th meeting: China, p. 8; Ecuador, p. 2; Turkey, p. 3; USSR, p. 2; United States, p. 6; Yugoslavia, pp. 2-3. See also Case 37 for statements on effect of inclusion in the agenda.

⁷⁴ 559th meeting: p. 10.

⁷⁵ 2nd meeting: p. 16.

ian complaint against Greece, the representative of China stated:

" . . . our vote is not to be interpreted as approval or otherwise, of the substance or purpose of the application, or even the form in which it is presented."

The President (Poland), in putting the agenda to the vote, stated:

"By taking this vote, one way or the other, we do not pass judgment on the merits of the case."⁷⁶

CASE 29

At the 71st meeting on 23 September 1946, in connexion with the question of information on Allied armed forces on enemy territory, the representative of Poland stated:

" . . . we do not need to pass judgment on whether or not there is any situation such as described in Articles 34 and 35; this will be discussed after the item has been admitted to the agenda."

At the 72nd meeting on 24 September 1946, the representative of France stated:

" . . . a reason which was given yesterday [*for not considering the question*] is that the situation in question would not involve a threat to the peace. This is a basic question and in my opinion it would not justify, *a priori*, the dismissal of the examination of the question. Only after studying it thoroughly should we be able to say whether or not it constituted a threat to the peace."⁷⁷

CASE 30

At the 154th meeting on 10 July 1947, the provisional agenda included, as item 2, the letter dated 2 July 1947 concerning the application of Austria for membership in the United Nations.⁷⁸ The representative of the USSR objected to the inclusion of item 2 on the ground that it would be "inexpedient to consider the Austrian Government's application for admission to the United Nations at this stage". He observed: "The inclusion of this question in the agenda would mean that we accept it for consideration in the Security Council. I believe that this question is not proper for consideration by the Security Council." The President (Poland) expressed the view that it would be more in accordance with the provisional rules of procedure first to "adopt the agenda, and later take whatever decision the Council may desire on this item". He therefore proposed "that the Council should adopt the agenda as it now stands before the Council". He observed that "the Council can put the question on the agenda and still refuse to consider it".

Decision: *The Council decided to include item 2 in the agenda by 9 votes in favour and 2 abstentions.*⁷⁹

⁷⁶ For text of relevant statements see: 59th meeting: President (Poland), p. 197; China, p. 196. See Case 17 for other discussion.

⁷⁷ For texts of relevant statements see: 71st meeting: Poland, p. 429. 72nd meeting: France, p. 446. See Case 18 for other discussion and decision.

⁷⁸ S/403.

⁷⁹ 154th meeting: pp. 1257-1260.

CASE 31

At the 171st meeting on 31 July 1947, the Indonesian question (II) constituted item 2 of the provisional agenda. The representative of Belgium stated:

"This decision on admissibility does not, however, prejudice the Council's competence in any way. By admitting their admissibility, the Council in no way decides whether the subject of the communications thus placed on the agenda does or does not fall within its competence . . ."

The President (Poland), in putting to the vote the inclusion of the item in the agenda, stated:

"I should like to make it clear that the adoption of this item on the agenda does not in any way prejudice either the competence of the Security Council in the matter or any of the merits of the case."

Decision: *The agenda was thereupon adopted without objection.*⁸⁰

CASE 32

At the 268th meeting on 17 March 1948, the letter dated 12 March 1948 from the permanent representative of Chile regarding events in Czechoslovakia⁸¹ constituted the second item on the provisional agenda. The representative of the USSR objected to the inclusion of the item in the agenda on the ground that the question was not within the competence of the Security Council. The representative of Syria stated:

"Including the question in the agenda of the Security Council does not mean that the Security Council is expressing any opinion on the substance of the matter, on the question of whether the events in Czechoslovakia are a matter of domestic jurisdiction or whether they may fall within the province of the Security Council . . ."

"At a later stage, after the Security Council has studied these matters, it will either remove the item from the agenda or give it further study in order to formulate a resolution on the subject."

The representative of France expressed the view that such a question should be included in the agenda in order to discuss it and ascertain the relevant facts; exception should be made only with regard to an "obviously frivolous" complaint.

⁸⁰ For texts of relevant statements, see:

171st meeting: President (Poland), p. 1617; Belgium, p. 1617. See also Case 20 for other discussion and decision.

At the 192nd meeting, the representative of France was unable to accept the view that "the fact that a question appears on the agenda makes the Council competent until it is decided otherwise". He thought it would be logical to take the view that "before any question—even the question of the Council's jurisdiction in this matter—can be discussed, it must appear on the agenda. The fact that it is placed and retained on the agenda does not, in itself, affect the question of jurisdiction". The President (Syria) stated that he fully agreed with the representative of France "that the existence of an item on the agenda does not decide the matter of competence and does not close the door to any opposition".

At the 193rd meeting the representative of Poland stated: "We settled the question of competence when we admitted this case to the agenda of the Security Council."

At the 194th meeting the representative of the USSR stated: ". . . The Security Council's right to deal with the question is established by the very fact that it undertook to examine it . . ."

192nd meeting: President (Syria), p. 2150; France, p. 2149.

193rd meeting: Poland, p. 2187.

194th meeting: USSR, p. 2210.

⁸¹ S/694, O.R., 3rd Year, Suppl. for Jan., Feb., and Mar. 1948.

The representative of the United States stated:

"A decision on the question now pending is not a decision on the substance, and it would not constitute a judgment upon the merits of the question.

" . . . when a question is raised, as it is here, whether an item should be placed on the agenda for discussion or not, there must be a consideration of the character of the question in order to learn whether the competence of the Security Council reaches the item.

"Consequently, in order to be able to determine whether the case comes within the meaning of Article 2, paragraph 7, the Security Council must consider the Chilean complaint; and of course, it cannot consider the Chilean complaint if it is not put on the agenda."

The representative of Belgium stated:

" . . . inclusion in the agenda merely settles the question of admissibility and in no way prejudices a decision on the substance of the question, or even a decision regarding the competence of the Council."⁸²

Decision: *The Council decided to include the item in its agenda by 9 votes in favour and 2 against.*⁸³

CASE 33

At the 357th meeting on 16 September 1948, "Communications from the Government of Hyderabad" constituted item 2 of the provisional agenda.

The representative of China requested adjournment of the meeting to enable him to secure instructions from his Government on the adoption of the item. The representative of the United States referred to the ruling of the President at the 171st meeting on 31 July 1947,⁸⁴ and added:

"In my opinion, that is a sound ruling and an adequate precedent for action by the Security Council. The agenda could be adopted without in any way prejudging either the competence of the Security Council or any of the merits of the case."

The representative of Argentina also expressed the view that "by adopting the agenda . . . we are in no way prejudging the position of the Security Council or any of its members . . ."

The representative of China replied:

"While it is true that placing a question on the agenda of the Security Council does not prejudice the merits of the question, while that is true, it is not equally true that placing the question on the agenda does not involve a certain view of the competency of the Security Council in regard to that question.

" . . . The admission of a question to the agenda does imply a certain view of the juridical status of

the parties to a dispute. I am not sure that even a ruling by the President on that aspect of this question can safely and completely guard the position of the Security Council with regard to the competency of the Council in relation to this matter. Certainly, in the absence of a presidential statement on that aspect of the question, my delegation feels that the adoption of the agenda does prejudice a very important aspect of this question."

The representative of Argentina, in view of the need for immediate consideration, moved that the agenda be adopted. The representative of France thereupon made the following observation:

"If I am correct, we are faced with a difficulty which we have previously encountered: to know the exact implication of adopting an item of the agenda. It may be maintained that, in order that an item of the agenda may be adopted, the Security Council must have determined its competency to deal with the question.

"It may, on the other hand, be thought that, in order to discuss its competency in the matter, the Council must first of all have decided to place the item on the agenda.

"The French delegation has always considered the latter procedure to be the more logical and the more consistent with the good ordering of the work of the Council.

"I believe that we have here one of these cases in which determination of the Council's competence is closely linked with substantive considerations, and that, in order to decide our competence, we have first to study the documents before us and perhaps even to give hearings.

" . . . it seems to me preferable to place the item on the agenda, it being understood . . . that while so doing we are at the same time reserving all subsequent decisions of the Council, including the possibility of its declaring itself incompetent in the matter."

The representative of the USSR indicated his view that, before including the item in its agenda, the Council should obtain information from the other party, the Government of India, regarding the substance of the question and the status of Hyderabad:

The Chinese proposal to adjourn was put to the vote and rejected by 1 vote in favour and 10 abstentions.

The President (United Kingdom) stated that he would put the agenda to the vote with the following reservation:

" . . . that the adoption of the agenda does not decide or affect in any way the question of the Security Council's competence and that we should have the right to revert to that question, if that is necessary and if we so desire, at a later stage."⁸⁵

Decision: *The Council decided to include the item in its agenda by 8 votes in favour and 3 abstentions.*⁸⁶

⁸² For texts of relevant statements see: 268th meeting: Belgium, p. 100; France, pp. 98-99; Syria, p. 95; USSR, pp. 90-91; United Kingdom, pp. 93-94; United States, p. 99. See also Case 21 for other discussion. See also United States, 278th meeting, p. 2: "One of the aims of the Security Council proceedings is to establish whether or not the matter before the Security Council is essentially within the domestic jurisdiction of Czechoslovakia."

⁸³ 268th meeting: pp. 101-102.

⁸⁴ See Case 31.

⁸⁵ For texts of relevant statements see:

357th meeting: President (United Kingdom), p. 10; Argentina, p. 5; China, p. 5; France, p. 8; USSR, pp. 3-4, 9; United States, p. 4.

⁸⁶ 357th meeting: p. 11.

CASE 34

At the 361st meeting on 4 October 1948, the identic notifications dated 29 September 1948⁸⁷ constituted item 2 of the provisional agenda. The representative of the USSR objected to the inclusion of the item in the agenda on the ground that it did not fall within the competence of the Security Council. The representative of Belgium stated:

"As such, the inclusion of the item on the agenda has no other significance. It does not imply any admission of competence on the part of the Council. The discussion on competence should follow the formal inclusion of the item on the agenda, but not precede it. Indeed, to discuss whether it is competent or not, the Council must first be in a position to consider the matter, and this it can only do by placing the item on its agenda, that is, among the items with which it is seized."

The representative of the USSR in reply stated the following view on rule 9 of the provisional rules of procedure:

"To approve an agenda means to recognize that it is appropriate, and that the questions to be included in its agenda are suitable and correspond to the competence of the body in question.

"If any other stand were adopted, the result would be this: the Security Council would first approve the agenda, then afterwards discover that a given question which had been included in that agenda, already approved, did not fall within its competence. What would you have us do then? Remove this question from the agenda? But such a course would be unthinkable and illogical."

Although the Belgian statement was made as "a point of order", discussion of the problem of competence proceeded, and the representatives of the United States, United Kingdom, France, Syria, USSR and Belgium addressed their remarks to this problem at the 361st and 362nd meetings. On the procedural question of the adoption of the agenda in relation to competence, observations were made as follows.

The representative of the United Kingdom stated:

"As I understand it, we are still engaged in discussing whether or not to adopt the provisional agenda which is before us. Objection to such adoption has been raised by one delegation, the delegation of the USSR, on the ground that the Security Council itself is not competent to discuss the question raised in the identic notes from the three Governments. The representative of Belgium suggested, I think, that we could actually put the question on the formal agenda and subsequently discuss the competence of the Security Council, and he seems to be of the opinion that that would be a proper procedure. I do not wish to pronounce myself on that. Actually it does not seem to me to make very much difference. If we were to put the matter on the agenda and then discuss competence and find that we were incompetent, I suppose we should then have to take the matter off the agenda again. Equally, if we found that we were competent before the question was

placed on the agenda, then logically, unless any other objection were raised, we should have to put it on our agenda.

"What is clear, however, is that the Security Council should address itself to this question of competence, since it has been raised, before embarking on a discussion of the substance of the matter."

The representative of France stated:

". . . Even in cases where the question of competence was raised, we have always felt and maintained that it was an efficient method of work, or in short, more or less common sense, to first place the item on the agenda before beginning to discuss the question; otherwise, we should be led to the result which was apparent yesterday, where a question which had not yet been included on the agenda was discussed for a whole meeting."

The representative of Syria stated:

". . . if we consult the regulations of all the other similar departments or organs, we find that the adoption of the agenda does not preclude discussion or contentions against the competence of the organ in a particular respect. The adoption of the agenda means the reception of a certain case to be put before the Security Council or before a court. In the courts of justice they accept the case, they discuss it, and then the defendant has the full right to raise the question of competence and to oppose the competence of the court. Then the court decides whether or not it was competent, but only after being seized of the case and having placed it under discussion.

"The whole discussion . . . yesterday was on the question of competence; it was centered upon Article 107 and other Articles of the Charter. I did not intend to take part in that discussion until the agenda had been adopted, but now I see that most of the arguments against or in favour of competence have been presented. In addition these arguments have been widely and fully discussed by most of the members as if they wished the vote on the adoption of the agenda to also include a decision on the question of competence. If that is so, then we have to discuss the matter of competence fully, before we adopt the agenda, although this is not the regular procedure in discussions in bodies such as ours. For this reason, I think that it would be better first to adopt the agenda and then pass on the discussion of the question of competence which has been raised by Mr. Vyshinsky."

The representative of Argentina stated:

"The Argentine delegation will accordingly vote for the adoption of the agenda, it being understood, however, that by this vote it does not express any opinion on competence, jurisdiction or substance of the matter."⁸⁸

Decision: *At the 362nd meeting on 5 October 1948, the Council adopted the agenda by 9 votes in favour and 2 against.*⁸⁹

⁸⁷ For texts of relevant statements see:

361st meeting: Belgium, pp. 16-17; USSR, p. 17; United Kingdom, pp. 27-28, 30; United States, p. 19-27.

362nd meeting: Argentina, p. 21; France, p. 2; Syria, pp. 5-6. See also Case 23 for other discussion.

⁸⁸ 362nd meeting: p. 21.

⁸⁹ S/1920 and Add.1, O.R., 3rd year, Suppl. for Oct. 1948, pp. 9-45.

CASE 35

At the 409th meeting on 15 February 1949, the application of the Republic of Korea for admission to membership in the United Nations constituted item 2 of the provisional agenda. The representative of the USSR objected to the inclusion of item 2 in the agenda on the grounds that the "so-called Korean Republic" was an "illegal government".

The President observed that the statement of the representative of the USSR "went into the merits of the question". He continued: "That aspect of the question will be discussed later."

Decision: *The Council rejected the proposal to delete the item by 2 votes in favour, 8 against and 1 abstention.*⁹⁰

CASE 36

At the 493rd meeting on 31 August 1950, item 5 of the provisional agenda read:

"The unceasing terrorism and mass executions in Greece."

The President, speaking as the representative of the USSR, urged that the Security Council should intervene to protect the lives of certain members of the Greek "national resistance movement" who had been sentenced to death. The representative of China objected to the inclusion of the item in the agenda on the grounds that the question of human rights was not within the jurisdiction of the Council. The representative of the United Kingdom observed:

"It is perfectly clear that the Security Council has no jurisdiction in the matter at all, and that it would be wholly improper for the item to be included in the definitive agenda."

The representative of the United States contended that the item was based on a "strange communication" which contained "no single coherent suggestion that there is a threat to international peace". The representative of Egypt objected to the inclusion of the item on the grounds that the agenda had become unduly cumbersome, and the representative of Cuba on the grounds that the communication in question was mere propaganda. The representative of Yugoslavia indicated that he would vote in favour of the inclusion of the item "without prejudging the question of whether this Council is really competent to deal with such matters".

After the vote on the agenda, the representatives of India, Ecuador and Norway explained the grounds for their votes against the inclusion of that item.⁹¹

Decision: *The Council rejected the proposal to include the item in the agenda by 2 votes in favour and 9 against.*⁹²

⁹⁰ 409th meeting: pp. 2-3.

⁹¹ For texts of relevant statements see:

493rd meeting: China, p. 8; Cuba, p. 11; Ecuador, p. 31; Egypt, p. 2; India, p. 30; Norway, p. 31; USSR, p. 19; United Kingdom, pp. 22-28; United States, p. 27; Yugoslavia, p. 29.

⁹² 493rd meeting: p. 30. See also chapter XII, Case 18, for grounds of objection.

CASE 37

At the 559th meeting on 1 October 1951, in connexion with the Anglo-Iranian Oil Company case, objection having been raised by the representative of the USSR to the inclusion of the item in the agenda on the grounds that discussion would constitute interference in the internal affairs of Iran, the representative of India stated:

"Even to decide the issue of competence, of jurisdiction, we should have all the facts from both sides before us. Therefore, without prejudging any issue, keeping even the question of jurisdiction open, we can proceed to hear the parties."

The representatives of Ecuador, China, Turkey and the United Kingdom made statements to the same effect.

The representative of Yugoslavia stated:

"... If we decide now on our agenda, prejudging to a certain extent our competence to deal with this dispute by starting our discussion on the merits of the case, we shall take the decision on this aspect of the dispute without having heard one of the two parties, Iran."

The representative of the United States favoured the adoption of the agenda. He added that

"Presumably, the Government of Iran will be invited to sit at the Security Council table after the adoption of the agenda. Therefore, it seems to my Government that a decision on competence should come after the Government of Iran has been invited to the table."⁹³

C. OTHER DISCUSSION ON THE ADOPTION OF THE AGENDA

1. Order of discussion of items on the agenda⁹⁴

CASE 38

At the 439th meeting on 7 September 1949, the representative of the USSR proposed that item 3 on the provisional agenda should be taken up as item 2, making item 2 "which is a new question with which the Council has not previously dealt, item 3 on our agenda". The representative of the Ukrainian SSR referred to rule 10 as supporting this proposal, since consideration of item 3 had not been completed.

The President (United Kingdom) stated that rule 10 did "not assign any particular priority to the question," and that it was for the Security Council to decide the order in which items should be taken.⁹⁵

Decision: *The Council rejected the USSR proposal to reverse the order of the items by 3 votes in favour, 5 against, and 3 abstentions.*⁹⁶

⁹³ For texts of relevant statements see: 559th meeting: China, p. 8; Ecuador, p. 2; India, p. 7; Turkey, p. 3; United Kingdom, p. 3; United States, p. 7; USSR, pp. 1-2; Yugoslavia, p. 9. See also Case 26 for other discussion and decision.

⁹⁴ See also chapter VII, Cases 29 and 30, for relevant discussions at the 427th meeting and 568th meeting.

⁹⁵ For texts of relevant statements see: 439th meeting: President (United Kingdom), p. 4; Argentina, p. 3; Canada, p. 3; Ukrainian SSR, p. 4; USSR, pp. 2-3, 4. See also the ruling by the President (United Kingdom) at the 503rd meeting, p. 7: "With all respect to rule 10... it does not say that it must automatically be included as item 1; whether it is to be included as item 1 is a matter for discussion when the Council comes to the discussion of the provisional agenda."

⁹⁶ 439th meeting: p. 5.

CASE 39

At the 480th meeting on 1 August 1950, the representative of the United States suggested that the "Complaint of aggression upon the Republic of Korea" should be inserted as item 2 on the agenda. He stated:

"... the first item of business on today's agenda should be a continuation of the discussion which was started yesterday afternoon on the United States draft resolution."

At the 481st meeting on 2 August 1950, he put his proposal in the form of a written amendment, and supported it by reference to rule 10 of the provisional rules. The President (USSR) replied as follows:

"This rule, however, does not state that such an item must necessarily be considered first. In what rule of the rules of procedure has the United States representative found that an item which has been carried over from the previous meeting must be considered first?"

At the 482nd meeting, on 3 August 1950, the representatives of India and Egypt suggested that the Security Council should first decide on the items to be included in the agenda, and then decide the priority of the items included.

The President (USSR) then ruled:

"We shall vote on the inclusion of all the items in the agenda in the order in which they were received. After that, we shall decide the question of priority. If this is challenged, we shall take a vote on the ruling of the President."⁹⁷

The representative of the United Kingdom challenged the President's ruling.

Decision: *On the vote being taken, the Council rejected the ruling by 2 votes in favour, 7 against and 2 abstentions.*⁹⁸

CASE 40

At the 503rd meeting on 26 September 1950, the provisional agenda of which contained four items, the representative of India proposed that the question of the admission of the Republic of Indonesia to the United Nations be added to the provisional agenda as the first item.

Decision: *The Council adopted the Indian proposal by 9 votes in favour and 2 abstentions.*⁹⁹

The representative of India also proposed that a decision should be taken on the admission of Indonesia before consideration of the priority to be accorded to the other items on the provisional agenda. The representative of the USSR considered that the correct procedure would be to consider the priority of the various items after the adoption of the agenda. To facilitate immediate action on the application of Indonesia, the representative of China proposed that the agenda be limited to that single item. The representative of the United Kingdom proposed limitation to

two specified items, and the representative of the USSR to three specified items. All three proposals were voted upon.¹⁰⁰

Decision: *The Council decided, by 7 votes in favour, 1 against and 3 abstentions, that the agenda should be limited to two items, and proceeded to the consideration of the first substantive item on the agenda, the application of the Republic of Indonesia for membership.*¹⁰¹

2. Scope of items on the agenda in relation to the scope of discussion

CASE 41

At the 123rd meeting on 28 March 1947, which had been called in response to a request put forward by the representative of the United States on 25 March 1947 "that the Greek question, which now appears on the list of matters of which the Security Council is seized, be placed on the provisional agenda of the next meeting", the representative of the USSR stated that the question on the list of matters of which the Security Council was seized related to incidents along the northern Greek frontiers and was "altogether different" from the new question raised in the letter from the United States representative. He considered that the question should be included in the agenda "not as the old restricted question of border incidents, but as a new question". He would not "in any circumstances consider this question as being merely the old question restricted to border incidents".

The President (Brazil) stated:

"Whether the matters inscribed on the agenda are old or new, the representatives will be free to talk about the old incidents or the new problems created by the Greek problem itself... We have the broadest way of considering new or old matters and of discussing the Greek problem in this Council."

Decision: *The Council adopted the agenda without objection.*¹⁰²

CASE 42

At the 231st meeting on 22 January 1948, item 2 of the provisional agenda read as follows:

"2. India-Pakistan question."

Three communications were appended as sub-items: the letter dated 1 January 1948 from the representative of India and letters dated 15 January 1948 and 20 January 1948 from the Minister of Foreign Affairs of Pakistan.¹⁰³

The President (Belgium) drew attention to a letter from the representative of India in which he pointed out that hitherto the item on the agenda had read "The Jammu and Kashmir question", and expressed objection to the amendment of the description of the item.

⁹⁷ For texts of relevant statements see:

503rd meeting: China, p. 18; Cuba, p. 12; Ecuador, p. 20; India, p. 10; USSR, p. 16.

⁹⁸ 503rd meeting: pp. 22-23.

⁹⁹ 123rd meeting: pp. 616-617.

For a case of objection by members of the Council, in the course of proceedings, to a draft resolution on the grounds that it did not come within the scope of the question on the agenda, see 353rd meeting, pp. 22-26. See also 70th meeting: pp. 394, 397-398, 403, 406; and 88th meeting: pp. 704-706.

¹⁰⁰ 231st meeting: pp. 143-144.

⁹⁷ For texts of relevant statements see:

480th meeting: United States, p. 13.

481st meeting: President (USSR), p. 18.

482nd meeting: President (USSR), p. 19; Egypt, p. 12; France, p. 15; India, p. 10; United Kingdom, pp. 1-2; United States, p. 13.

⁹⁸ 482nd meeting: pp. 19-23. For further voting, see Case 13.

⁹⁹ 503rd meeting: p. 15.

On the proposal of the President, the representative of India was invited to take part in the discussion on the adoption of the agenda.

The representative of India*, in his statement to the Council, observed that the justification for the amendment appeared to be the receipt of the letter of 20 January 1948 from the representative of Pakistan which requested the calling of a meeting of the Council to consider the situations, other than the Jammu and Kashmir situation, set out in his letter of 15 January 1948. The representative of India continued that India did not contend that these other situations should not be placed on the agenda of the Council, but only that that step had not been taken. The debate about to proceed should therefore be confined to the Jammu and Kashmir question. The original wording should therefore be restored. The Pakistani letter of 20 January 1948 should be placed on the agenda as a separate item, with the result that the additional questions would be discussed after the first item had been disposed of.

The representative of Syria expressed the view that the formulation of the agenda was correct on the grounds that a submission had been made by the Indian Government concerning the Jammu and Kashmir question, and the representative of Pakistan had submitted related counter-claims which in their view should be considered simultaneously. It was for the Security Council to decide whether the two claims were related to each other.

The representative of the USSR stated that the former Jammu-Kashmir item should be included in the agenda since "only the Council can delete any item from the Council's agenda". The question raised by the representative of Pakistan should constitute a separate item in the agenda since it would be incorrect to combine the question of the situation in Kashmir with the general problem of the relations between India and Pakistan.

The representative of Argentina contended that several questions were involved "in the India-Pakistan problem", and the Council could not ignore one and deal with another merely because only one had been officially brought before the Council.

The representative of Colombia pointed out that the request of the representative of India was essentially that only the Jammu and Kashmir situation should be dealt with at that meeting, in order that time could be allowed for preparation on other aspects.

The representative of the United States, drawing attention to rule 10 of the provisional rules, observed: "It seems clear that the item on this agenda should be exactly the same item that was on the last agenda because it falls within rule 10 of the rules of procedure, and it has not been concluded. To use the language of rule 10, consideration of the item has not been completed."

The representative of Pakistan* indicated that he was "not concerned with the technicalities of the question". The heading was immaterial providing it was deemed that all questions referred to were on the agenda. He desired to have it established "that the Security Council is now seized of the situation between India and Pakistan, and that that situation has many facets, of which Kashmir and Jammu is only one".

The President indicated that the proposal of the representative of India was that the debate should

concern the Jammu and Kashmir question first, and that other questions should be discussed in due course. He added that the representative of Pakistan did not appear to oppose this order, and that he would ask the Council to proceed accordingly.¹⁰⁴

Decision: *The Council then adopted the agenda without change.*¹⁰⁵

CASE 43

At the 339th meeting on 27 June 1948, before the agenda was adopted, the representative of the United Kingdom stated that, in connexion with item 2, which was indicated simply as "the Palestine question", he would like in the course of the discussion to raise a particular point concerning the kidnapping of five British subjects in Jerusalem.

The President (USSR) stated:

"I think that, during the discussion of the Palestine question, the United Kingdom representative should be entitled to raise any other related questions he may deem appropriate."

Decision: *The Council then adopted the agenda.*¹⁰⁶

CASE 44

At the 480th meeting on 1 August 1950, the provisional agenda contained the item "Peaceful settlement of the Korean question". The representative of the United States, after proposing the inclusion of the item "Complaint of aggression upon the Republic of Korea", stated:

"It is the item which has commanded the attention of the Council at all the meetings during the past five weeks . . .

"We have become accustomed, in this and other organs of the United Nations, to agenda items worded primarily with a view to their propaganda value. However, it is our long-standing practice to keep our agenda items very general and simple, and we believe that we should stick to that practice in the present instance."

The representative of the United Kingdom stated:

"I cannot suppose that our President has failed to keep himself informed of the Council's work since his withdrawal. He will no doubt be aware that the item under which the Council has so far considered the Korean question is entitled "Complaint of aggression upon the Republic of Korea". Now the item which the representative of the Soviet Union, in his capacity as President, has placed upon the provisional agenda is entitled "Peaceful settlement of the Korean question". The difference in wording seems to me to be significant. If we were to adopt the formula of the USSR, all reference to aggression would disappear. Yet it is the act of aggression which is responsible for bringing this matter before the Council, and it is the main factor with which we have to deal."

¹⁰⁴ For texts of relevant statements see:

231st meeting: President (Belgium), pp. 144, 163; Argentina, p. 150-152; India, p. 145; Pakistan, pp. 157-160; Syria, p. 149; USSR, p. 150; United Kingdom, pp. 147, 154; United States, p. 155.

¹⁰⁵ 231st meeting: p. 164.

¹⁰⁶ 339th meeting: pp. 1-2. For statement by President to the same effect, see 345th meeting: p. 2.

The President (USSR) stated:

"The USSR delegation has submitted a proposal for the peaceful settlement of the Korean question. Accordingly, if the Security Council, as an instrument of peace and an organ for the peaceful settlement of conflicts, really desires peace, it must consider the question of a peaceful settlement, and not replace it by any other item diametrically opposed in meaning."¹⁰⁷

CASE 45

At the 525th meeting on 27 November 1950, before the vote was taken on the provisional agenda which included as sub-item (b) "Complaint of aggression upon the Republic of Korea", the representative of India asked:

"Before . . . the matter is put to the vote, I should like a ruling from the President whether the wording of sub-item (b) is wide enough to permit discussion of any counter-complaint of armed intervention in Korea which the representative of the Peking Government might wish to bring forward."

The President (Yugoslavia) replied:

"In my opinion, the item on the agenda covers the whole problem of Korea, and any member of the Council or any representative of the countries concerned may express his views on the problem of Korea."¹⁰⁸

CASE 46

At the 519th meeting on 8 November 1950, the complaint of aggression upon the Republic of Korea constituted item 2 of the agenda. The representative of the USSR asked for clarification on what the Council would discuss, since it would be difficult for him "to agree to the adoption of the agenda, before knowing specifically what we are going to discuss today in connexion with the item on today's provisional agenda". The representative of the United Kingdom replied that the special report dated 5 November 1950 from the United Nations Command in Korea would be discussed.¹⁰⁹ The representative of the USSR referred to the proceedings of the 356th meeting as precedent for objection to the agenda on grounds of objection to the documentation attached. He continued:

"... in view of this and other precedents in the Council's practice, it is only natural that every member of the Council should have the right to find out what will be discussed in connexion with a given item on its agenda before agreeing to the adoption of that item. It is the right of a member of the Security Council to know what will be considered at a meeting of the Security Council, and it is therefore natural that the USSR delegation should be interested to know precisely what the Council will discuss at today's meeting."

¹⁰⁷ For texts of relevant statements see: 480th meeting: United States, pp. 12-15. 481st meeting: President (USSR), p. 18; United Kingdom, p. 3. For the decision, see Case 13.

¹⁰⁸ For texts of relevant statements see: 525th meeting: President (Yugoslavia), pp. 18-19; India, p. 14.

¹⁰⁹ S/1184.

The President (Yugoslavia), before calling for a vote, stated:

"... I should like to repeat that I do not consider the President to be bound by precedents . . . The question of Korea is on our provisional agenda and the Council is therefore free to discuss any aspect of the question."¹¹⁰

3. Phrasing of items on the agenda¹¹¹

CASE 47

At the 473rd meeting on 25 June 1950, item 2 of the provisional agenda read "Aggression upon the Republic of Korea". The President (India) suggested that the item be amended to read "Complaint of aggression upon the Republic of Korea". This proposal was adopted.¹¹²

CASE 48

At the 492nd meeting on 29 August 1950, the representative of the United States questioned the terms in which the communication from the Minister of Foreign Affairs of the People's Republic of China was entered in the provisional agenda. He observed that:

"The language in which an item is to be couched is subject to agreement by the members of the Council. If there is something about the language which is obnoxious because it seems to prejudice an issue, it is then within the just and fair scope of the Security Council to correct such language and to put it into a form which is unobjectionable and yet, at the same time, does present the issue."

The representative of India stated that the wording of the item "should be brief and should not be capable of being misunderstood as a pronouncement upon the merits of the case". He proposed that the wording of the item should read: "Complaint of armed invasion of Taiwan (Formosa)".

Decision: *The Council included the item in the agenda in the form proposed by the representative of India by 7 votes in favour, 2 against, 1 abstention and 1 member not participating.*¹¹³

CASE 49

At the 545th meeting on 8 May 1951, the President (Turkey), when submitting the provisional agenda containing one item, the Palestine question, with nine different communications as sub-items, made the following statement:

"... I wish to repeat the ruling of previous Presidents of the Security Council that complaints

¹¹⁰ For texts of relevant statements see: 519th meeting: President (Yugoslavia), p. 6; USSR, pp. 2, 3; United Kingdom, p. 3.

¹¹¹ For a case of phrasing an item on the agenda by combining several, complaints under the item entitled "The Palestine question", see 502nd meeting, pp. 1-2; 503rd meeting: pp. 8-10; 511th meeting: p. 2. For summary, see chapter VIII, p. 339.

¹¹² 473rd meeting: p. 2. See also 502nd meeting, p. 15, for the same insertion in respect of another item; and 545th meeting, p. 3, for the reply by the President (Turkey) that he would consult the parties before making this modification.

¹¹³ For texts of relevant statements see: 492nd meeting: President (USSR), pp. 2, 9-11; India, p. 11; United Kingdom, p. 8; United States, pp. 2, 11.

are listed in the provisional agenda as they are formulated by the interested parties, and no *prima facie* value exists in any item appearing on the provisional agenda. The items are intended only to identify the subject matter.¹¹⁴

4. Postponement of consideration of items¹¹⁵

CASE 50

At the 60th meeting on 4 September 1946 in connexion with the question of information on Allied Forces on non-enemy territory, which appeared as item 3 in the provisional agenda, the President (Poland) stated:

"...unless there is any objection by this Council, I propose that we keep the third item on the provisional agenda as it is until our discussion of the second item is finished or until the Council decides to change this decision. Unless there is objection, I shall postpone discussion of the question of inclusion of the third item in the agenda."

Decision: *The suggestion of the President was adopted, item 3 being kept pending on the provisional agenda of this and subsequent meetings.*¹¹⁶ Discussion on item 3 was resumed at the 71st meeting on 23 September 1946.

CASE 51

At the 82nd meeting on 10 December 1946, the application of Siam for membership in the United Nations was included as item 2 in the provisional

¹¹⁴ 545th meeting: p. 2. See also the earlier statement by the President (United States) at the 511th meeting, p. 2, and 503rd meeting, pp. 8-10.

¹¹⁵ For a case of inclusion of an item in the agenda on the understanding that consideration will be delayed, see 403rd meeting, pp. 1-2; for a case of information sought from the President regarding his intention with regard to proceedings on an item, see 222nd meeting, pp. 2270-2271.

¹¹⁶ 60th meeting: p. 200. For further proceedings, see Case 18.

agenda. The representative of the USSR proposed that the item should not be included in the agenda of the meeting as he wanted to study the question more fully. The President (United States) suggested that, instead of voting on the USSR proposal, the item should be adopted and immediately placed on the list of matters of which the Council was seized. He would then include the item in the provisional agenda for the next meeting.

Decision: *There being no objection, the proposal of the President was approved.*¹¹⁷

CASE 52

At the 159th meeting on 17 July 1947, the letter dated 8 July 1947 from the Prime Minister and Minister of Foreign Affairs of Egypt¹¹⁸ constituted item 2 of the agenda, and the Greek question constituted item 3.

The President (Poland) reminded the Council that by adopting the agenda "the Council does not necessarily commit itself to discussing both points today".

The representative of the United Kingdom, while raising no objection to the inclusion of the item in the agenda, indicated his desire for postponement of consideration in order to enable his Government to prepare its case.

The President stated: "It goes without saying that if one of the Governments needs some time in which to study a certain question, it is a matter of common courtesy that the Council should grant the time requested." The President therefore moved that the agenda be adopted, and that discussion of the Egyptian question be delayed until 5 August as desired by the representative of the United Kingdom. Accordingly, the Council proceeded to discussion of item 3, and postponed discussion of item 2.¹¹⁹

¹¹⁷ 82nd meeting: pp. 525-529.

¹¹⁸ S/410, 159th meeting: pp. 1343-1345.

¹¹⁹ 159th meeting: p. 1345-1346.

Part IV

THE AGENDA: MATTERS OF WHICH THE SECURITY COUNCIL IS SEIZED

NOTE

Rule 10 was designed to make it possible for the Security Council to continue, at the next meeting, consideration of an item of unfinished business without that item being the subject of renewed debate in connexion with the adoption of the agenda.¹ In practice, the provisional agenda has not contained all items of unfinished business. The case histories inserted in section A under rule 10 cover those instances in which attention has been drawn to the mandatory character of the provision for the insertion of unfinished items of the agenda in the agenda of the next meeting. Discussion whether an item covered by rule 10 is entitled to priority of consideration at the next meeting is entered in part III, section C.1. of this chapter.

Reference has frequently been made in the proceedings of the Council and in its decisions, though not

¹ In connexion with part IV, reference should be made to the observations of the Chairman of the Committee of Experts at the 31st meeting on 9 April 1946 and the ensuing discussion on the significance of rules 10 and 11. See Case 1.

in the rules of procedure, to the "list of matters of which the Security Council is seized"; this terminology has in consequence been adopted at certain points in the *Repertoire* but has not been utilised in the construction of the present chapter. Since the Council has not often made express decisions concerning the retention or removal of items on the agenda, and the evidence relating to the retention and removal of items derived from the Official Records does not permit of classification under procedural headings, the Secretary-General's Summary Statement circulated weekly in accordance with rule 11 has been looked to for appropriate evidence, especially since it has been the practice of the Council to base its notifications to the General Assembly under Article 12 (1) on the current issue of the Summary Statement. The material has been presented in the form of a cumulative tabulation of items. Included in the tabulation are references to the first inclusion of the item in the Security Council's agenda, to the first appearance of the agenda item in the Secretary-General's statement, to the last action

of the Council preceding the removal or retention of the item, and to the final appearance of the item in the Summary Statement. The absence of an entry under the latter head signifies that the item had been retained in the Summary Statement as of December 1951. The Security Council has not itself reviewed the successive issues of the Summary Statement, the authority of which rests on the provisions of rule 11.

In consequence of the varying nature of the items on the agenda of the Council, the removal of matters from the Secretary-General's statement is necessarily based on considerations special to each item. Items have been retained in the Summary Statement without express decisions to that effect except after (1) express decisions to remove them, (2) non-procedural decisions disposing finally of them affirmatively or negatively, and (3) the rejection of proposals to retain them. They have also remained on the list of matters after the exhaustion of all proposals by rejection, where the tenor of the Council's discussion has revealed a continuing concern with the matter. Regarding the retention or deletion of applications for membership from the Summary Statement, chapter VII, part III, should be consulted.

For the early questions before the Council, such as the Greek question (USSR communication dated 21 January 1946)² and the Indonesian question (I),³ the only evidence of termination of the Security Council's concern with an item is to be found in the Presidential statement closing the proceedings, since, at the date of the proceedings on those questions, rule 11 had not been instituted.

The provision in draft resolutions that the question before the Council remain on the list of matters of which the Council is seized, as well as the provision that parties to a dispute should inform the Council of the results of their negotiations, or that subsidiary bodies should report, have been interpreted by the movers of such draft resolutions to be apt ways of expressing the continuing concern of the Council with the matter under consideration.⁴

The case histories following the tabulation set forth the significant discussion in the Security Council of the retention or removal of items on the agenda taken in the sense of the list of matters of which the Security Council is seized. In general, the material is the procedural reflection of the Council's views of its

² See chapter VIII, p. 302 and chapter X, Case 21.

³ See chapter VIII, p. 302 and chapter X, Case 7.

⁴ *Iranian question I:*

Draft resolution by the representative of the Netherlands, 5th meeting, p. 60, withdrawn in favour of similar draft resolution by the representative of the United Kingdom, 5th meeting, p. 64, unanimously adopted at the same meeting, p. 71, after agreement to omit the words "the matter remains on the agenda"; see chapter VIII, p. 301.

Indonesian question I:

Draft resolution of the representative of Egypt, 17th meeting, p. 251, rejected 18th meeting, p. 263; see chapter VIII, p. 302.

Syrian and Lebanese question:

(i) Draft resolution by the representative of the Netherlands, 21st meeting, p. 317, withdrawn 23rd meeting, p. 354; see chapter VIII, p. 303.

(ii) Draft resolution by the representative of Egypt, 22nd meeting, p. 323, rejected 23rd meeting, p. 364; see chapter VIII, p. 303.

(iii) Draft resolution by the representative of the United States, 22nd meeting, p. 332, failed of adoption, 23rd meeting, pp. 367-368; see chapter VIII, p. 303.

continued responsibility for the consideration of a question. The case histories cover discussion of such matters as the effect of withdrawal of a complaint and the consequences of the exhaustion of all proposals without reaching an affirmative decision. Finally, several cases are included touching the effects of removal of an item from the agenda. Deletion of items from the list of matters to enable the Assembly to make recommendations is dealt with in chapter VI, part I, section A. The relation of the Summary Statement issued under rule 11 to notifications made to the General Assembly under Article 12 (1) is dealt with in the note to chapter VI, part I, section A.

A. RULE 10

CASE 53

At the 383rd meeting on 2 December 1948, the Hyderabad question, consideration of which had not been completed at the 382nd meeting, did not figure on the provisional agenda. The representative of Syria considered that, in order to meet the requirements of rule 10, the item should have appeared on the provisional agenda, particularly as the Council had decided that the matter "would be put on the agenda of the next meeting—which is today". The Assistant Secretary-General explained that two considerations had governed the suggestions made by the Secretariat in drawing up the provisional agenda: first, that the Government of Israel wanted an urgent consideration of their application for admission to membership, and, second, that the Indian delegation still had "no qualified representative appointed to the Security Council to discuss these questions". The representative of the United States accepted the explanation and was "content to wait until the Secretary-General, with the approval of the President, inscribes it on our provisional agenda, on the basis of the information he will receive regarding the feasibility of considering it". The representative of Syria was of opinion that "in order to meet the requirements of rule 10, at least it should have appeared on the agenda even if the question could not have been discussed on account of an excuse which might have been presented to the Council by the Indian Government, by means of a written document".

Decision: *After explanations had been given to the Syrian representative, the President (Belgium) as-*

Spanish question:

Draft resolution by the representative of the USSR, 49th meeting, p. 434, adopted at the same meeting, p. 441; see chapter VIII, p. 307.

Greek frontier incidents question:

Draft resolution by the representative of the United States, 180th meeting, p. 1910, rejected, 188th meeting, p. 2098; see chapter VIII, pp. 311-312.

Indonesian question II:

Draft resolution by the representatives of Australia and China, 193rd meeting, pp. 2173-2174, adopted 194th meeting, p. 2200 (after rejection of USSR amendments including one to keep the Indonesian question on the list of matters, 194th meeting, pp. 2197-2200); see chapter VIII, pp. 316-317.

Palestine question:

Draft resolution by the representative of France, 434th meeting, p. 36, to "maintain the question of Palestine on its agenda pending the definitive conclusion of treaties of peace", withdrawn, 435th meeting, p. 2, in favour of a joint Canadian-French proposal providing, *inter alia*, for reports from the Chief of Staff, adopted, 437th meeting, p. 13; see chapter VIII, pp. 338-339.

sumed that "the incident may be considered closed" and the provisional agenda was adopted.⁵

CASE 54

At the 480th meeting on 1 August 1950, the representative of the United States noted that, contrary to rule 10 of the provisional rules of procedure, the provisional agenda did not contain the item "Complaint of aggression upon the Republic of Korea", which had been under consideration at the previous meeting. The President (USSR) explained the omission from the provisional agenda as follows:

"The question . . . was not included in the provisional agenda which I circulated because I was not present at the Security Council's meeting yesterday . . . Since the representative of the United States is submitting his item for inclusion in the agenda and for continued consideration, it can be placed on today's agenda as a third item."

At the 481st meeting on 2 August 1950, the representative of the United States stated:

"This is mandatory. The rule says 'shall'. Legally, the question we were discussing on 31 July still constitutes an agenda item even though it does not appear on the provisional agenda . . ."

He moved that the item following "Adoption of the agenda" should be "Complaint of aggression upon the Republic of Korea". The President (USSR) stated:

"In accordance with the generally accepted rules, traditions and order of business to which the Security Council has adhered throughout its existence, the following procedure has been established. The provisional agenda is approved by the President and submitted to the Council. The Security Council has the right to accept or reject it in whole or in part. Every member of the Council has the right to submit an item for inclusion in the provisional agenda, but not to substitute another provisional agenda for the one approved by the President. The rules of procedure make no provision for this . . ."

* For texts of relevant statements see:

383rd meeting: President (Belgium), pp. 2, 4, 5, 7; Syria, pp. 2, 3, 5-7; United States, p. 5; Assistant Secretary-General, pp. 3, 4.

At the 482nd meeting on 3 August 1950, the representative of India stated that "there can hardly be any controversy that it must be included, because rule 10 of our provisional rules of procedure directs its automatic inclusion unless the Council otherwise decides. The Council has not decided otherwise and I have not heard any member speak against its inclusion."⁶

Decision: *The motion by the representative of the United States was adopted by 8 votes in favour, 1 against and 2 abstentions.*⁷

CASE 55

At the 504th meeting on 27 September 1950, the President (United Kingdom) explained that he had placed on the provisional agenda only one item, the "Complaint of armed invasion of Taiwan (Formosa)". The representative of Egypt enquired whether the "other items which we had on yesterday's agenda will be placed on the agenda of our next meeting, and not relegated to what is usually known as the 'continuing agenda' of the Security Council". The President assured him that "That is my understanding". The representative of the USSR requested the inclusion of a second item "Complaint of aggression upon the Republic of Korea".

Decision: *The Security Council unanimously adopted the agenda as amended, including the two items, and the representative of Egypt was assured by the President that "the right of the Egyptian delegation to ask for priority at the next meeting for the item known as 'The Palestine question' is undoubted".*⁸

* For texts of relevant statements see:

480th meeting: President (USSR), pp. 16-21; United States, pp. 12-15.

481st meeting: President (USSR) pp. 1, 17-18; Cuba; p. 12; Ecuador, p. 7; France, p. 11; Norway, p. 13; United Kingdom, pp. 2-5; United States, pp. 14-15.

482nd meeting: President (USSR), p. 3; Egypt, p. 12; India, pp. 10-11; United Kingdom, pp. 1-2; United States, p. 13.

⁷ 482nd meeting: p. 20.

⁸ 504th meeting: pp. 1-3.

B. RULE 11

Retention and deletion of items from the Secretary-General's Summary Statement of matters of which the Security Council is seized

For consideration by the Security Council of the problem of the retention and deletion of matters from its agenda, reference should be made to the case histories following this tabulation. Since the question of the deletion of items has only exceptionally been the subject of discussion or explicit decision by the Council, the case histories necessarily afford incomplete evidence regarding the problem involved. The tabulation is therefore included to provide supplementary evidence covering the entire range of matters before the Council; but it should be borne in mind that the tabulation is a strict tabulation of the Summary Statements themselves rather than a record of decisions by the Council in the matter. In respect of applications for membership, data is entered as a matter of convenience of reference for each application; but since S/610 of 28 November 1947, the subject matter has regularly appeared in the Summary Statements under the generic heading "Applications for Membership".

Item*	First inclusion in the agenda	First entry in Summary Statement	Last action of the Council as of 31 December 1951	Final entry in Summary Statement as of 31 December 1951
1. The Iranian question	3rd meeting 28 January 1946	S/45 23 April 1946	Adopted Netherlands proposal to adjourn discussion and resume it at the request of any member 43rd meeting, 22 May 1946*	

* Items are listed in the order in which they have appeared in the Secretary-General's Summary Statement of matters of which the Security Council is seized. The titles used are

those occurring in the Secretary-General's Summary Statement except for occasional abridgments.

* See Case 56.

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in Summary Statement</i>	<i>Last action of the Council as of 31 December 1951</i>	<i>Final entry in Summary Statement as of 31 December 1951</i>
2. The Spanish question	34th meeting 17 April 1946	S/45 23 April 1946	Adopted USSR draft resolution to maintain Spanish question upon list of matters 49th meeting, 26 June 1946 Adopted Polish draft resolution to take question off list of matters 79th meeting, 4 November 1946	S/189 1 November 1946
3. Statute and Rules of Procedure of Military Staff Committee	1st meeting 17 January 1946	S/45 23 April 1946	Referred report of Military Staff Committee to Committee of Experts 23rd meeting, 16 February 1946	
4. Special Agreements under Article 43 of the Charter	1st meeting 17 January 1946	S/45 23 April 1946	Discussed report of Military Staff Committee 157th meeting, 15 July 1947	
5. Rules of Procedure of the Security Council	1st meeting 17 January 1946	S/45 23 April 1946	Amended rules 468th meeting, 28 February 1950	
6. Application of Albania for membership in the United Nations	3rd meeting 28 January 1946	S/45 23 April 1946	Not recommended 57th meeting 29 August 1946	S/136 23 August 1946
7. Resolution adopted at the 42nd meeting concerning the admission of new Members	42nd meeting 17 May 1946	S/82 7 June 1946	Expiration of terminal date named in resolution	S/136 23 August 1946
8. Definition of conditions under which the International Court of Justice shall be open to States not parties to the Statute	50th meeting 10 July 1946	S/104 12 July 1946	Adopted resolution stating conditions under which the International Court of Justice shall be open to States not parties to the Statute of the International Court of Justice 76th meeting, 15 October 1946	S/178 11 October 1946
9. Ukrainian complaint against Greece	59th meeting 3 September 1946	S/154 6 September 1946	Rejected Polish draft resolution to retain on list of matters ^b	S/164 20 September 1946
10. Conditions on which Switzerland might become a party to the Statute of the International Court of Justice	78th meeting 30 October 1946	S/189 1 November 1946	Adopted resolution concerning conditions on which Switzerland might become party to the Statute 80th meeting, 15 November 1946	S/190 8 November 1946
11. Resolution of the General Assembly concerning a Committee on Rules concerning the Admission of New Members	81st meeting 29 November 1946	S/202 29 November 1946	Adopted resolutions embodying recommendations of Committee of Experts and making changes in provisional rules of procedure 197th meeting, 27 August 1947	S/610 28 November 1947
12. Resolution 35 (I) of 19 November 1946 concerning re-examination of applications for membership. Albania Mongolian People's Republic Transjordan Ireland Portugal	81st meeting 29 November 1946	S/202 29 November 1946	Not recommended 186th meeting, 18 August 1947	S/519 22 August 1947
Retitled "Applications for Membership" in S/340, Summary Statement of 2 May 1947. The following applications were thereafter added: Hungary	132nd meeting 30 April 1947	S/340 2 May 1947	Not recommended 190th meeting, 21 August 1947	S/519 22 August 1947

^b See Case 57.

Item	First inclusion in the agenda	First entry in Summary Statement	Last action of the Council as of 31 December 1951	Final entry in Summary Statement as of 31 December 1951
Italy	136th meeting 22 May 1947	S/358 23 May 1947	Not recommended 190th meeting, 21 August 1947	S/519 22 August 1947
Austria	154th meeting 10 July 1947	S/415 11 July 1947	Not recommended 190th meeting, 21 August 1947	S/519 22 August 1947
Roumania	161st meeting 18 July 1947	S/425 18 July 1947	Not recommended 190th meeting, 21 August 1947	S/519 22 August 1947
Yemen	168th meeting 28 July 1947	S/461 1 August 1947	Recommended 186th meeting, 18 August 1947	S/519 22 August 1947
Bulgaria	178th meeting 7 August 1947	S/480 9 August 1947	Not recommended 190th meeting, 21 August 1947	S/519 22 August 1947
Pakistan	186th meeting 18 August 1947	S/519 22 August 1947	Recommended 186th meeting, 18 August 1947	S/519 22 August 1947
13. The Greek question (Greek frontier incidents question)	82nd meeting 10 December 1946	S/214 13 December 1946	Adopted resolution to take the Greek frontier incidents question off the list of matters 202nd meeting, 15 September 1947	S/566 26 September 1947
14. The general regulation and reduction of armaments	88th meeting 31 December 1946	S/238 ^a 3 January 1947	Adopted resolution transmitting General Assembly resolution 300 (IV) to Commission for Conventional Armaments for further study 462nd meeting, 17 January 1950	
Information on armed forces of United Nations (General Assembly resolutions 41 (I) and 42 (I))	89th meeting 7 January 1947	S/246 ^a 10 January 1947		
15. First report of Atomic Energy Commission	92nd meeting 15 January 1947	S/255 17 January 1947	Adopted resolution giving further instructions to Atomic Energy Commission and calling for a second report	S/295 7 March 1947
16. Incidents in the Corfu Channel	95th meeting 20 January 1947	S/257 24 January 1947	Adopted resolution recommending reference of dispute to International Court of Justice 127th meeting, 9 April 1947 ^b	S/327 11 April 1947
17. Draft Trusteeship Agreement for the former Japanese Mandated Islands	113th meeting 26 February 1947	S/292 28 February 1947	Adopted Draft Trusteeship Agreement for the former Japanese Mandated Islands 124th meeting, 2 April 1947	S/321 4 April 1947
18. Application of Articles 11 and 12 of the Statute of the International Court of Justice	138th meeting 4 June 1947	S/370 6 June 1947	Adopted rule 61 of the Provisional Rules of Procedure 138th meeting, 4 June 1947	S/370 6 June 1947
19. Appointment of a Governor for the Free Territory of Trieste	143rd meeting 20 June 1947	S/382 20 June 1947	Rejected USSR draft resolution to appoint Colonel Flückiger as Governor 424th meeting, 10 May 1949	
20. The Egyptian question	159th meeting 17 July 1947	S/425 18 July 1947	Rejection of draft resolution 201st meeting, 10 September 1947 ^c	
21. The Indonesian question (II)	171st meeting 31 July 1947	S/461 1 August 1947	Failed to adopt Canadian draft resolution and rejected Ukrainian SSR draft resolution 456th meeting, 13 December 1949 ^d	

^a Combined in S/279 of 14 February 1947 in accordance with the Security Council's decision to deal with the two items together.

^b Combined in S/279 of 14 February 1947 in accordance with the Security Council's decision to deal with the two items together.

^c See Case 58.

^d See Case 59.

^e See Case 61.

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in Summary Statement</i>	<i>Last action of the Council as of 31 December 1951</i>	<i>Final entry in Summary Statement as of 31 December 1951</i>
22. Voting Procedure in the Security Council	197th meeting 27 August 1947	S/533 29 August 1947	Presidential statement concerning outcome of meetings of five permanent members in accordance with General Assembly resolution of 14 April 1949, 195th plenary session 452nd meeting, 18 October 1949	
23. Applications for membership Finland	204th meeting 25 December 1947	S/566 26 September 1947	Not recommended 206th meeting, 1 October 1947	S/576 3 October 1947
Reconsideration:				
Italy	} 204th meeting 25 September 1947	S/566 26 September 1947	Not recommended 206th meeting, 1 October 1947	S/576 3 October 1947
Hungary				
Roumania				
Bulgaria				
24. Procedure in application of Articles 87 and 88 of the Charter with regard to the Pacific Islands under Strategic Trusteeship of the United States	220th meeting 15 November 1947		Adopted resolution concerning procedure to be employed in application of Articles 87 and 88 of the Charter to strategic areas under Trusteeship 415th meeting, 7 March 1949	
25. Applications for Membership Reconsideration (General Assembly resolution 113 (II), 17 November 1947):				
Italy	} 221st meeting 22 November 1947	S/610 28 November 1947	Reported to General Assembly that there had been no change of position on either application (A/515) 221st meeting, 22 November 1947	
Transjordan				
Burma	261st meeting 3 March 1948	S/692 5 March 1948	Recommended 279th meeting, 10 April 1948	S/853 23 June 1948
Reconsideration ^a Italy	279th meeting 10 April 1948	S/719 12 April 1948	Not recommended 279th meeting, 10 April 1948	
Albania Austria Bulgaria Finland Hungary Ireland Mongolian People's Republic Portugal Roumania Transjordan	} 279th meeting 10 April 1948	S/719 12 April 1948	Reported to the General Assembly that there had been no change of position on any of the applications 280th meeting, 10 April 1948	
Ceylon	318th meeting 11 June 1948	S/843 12 June 1948	Not recommended 18 August 1948 351st meeting,	
Israel	383rd meeting 2 December 1948	S/1106 4 December 1948	Recommended 414th meeting, 4 March 1949	S/1279 7 March 1949

^a Reconsideration of the applications of Italy and Transjordan was requested by France, the United Kingdom and the United States by letter of 3 April 1948 (S/709). Reconsideration of the applications of Albania, Bulgaria, Finland, Hungary, Italy, the Mongolian People's Republic, Roumania was

requested by the Ukrainian SSR by letter of 5 April 1948 (S/712). Reconsideration of the applications of Austria, Ireland, and Portugal was requested by France, the United Kingdom, and the United States by letter of 7 April 1948 (S/715).

<i>Item¹</i>	<i>First inclusion in the agenda</i>	<i>First entry in Summary Statement</i>	<i>Last action of the Council as of 31 December 1951</i>	<i>Final entry in Summary Statement as of 31 December 1951</i>
Reconsideration (General Assembly resolution 197 (III) I, December 1948) Ceylon	384th meeting 15 December 1948	S/1184 12 January 1949	Not recommended 384th meeting, 15 December 1948	
Republic of Korea	409th meeting 15 February 1949	S/2163 21 February 1949	Not recommended 423rd meeting, 8 April 1949	
Letter of 11 February 1949 from the representative of the USSR concerning application by the Democratic People's Republic of Korea	409th meeting 15 February 1949	S/2163 21 February 1949	Rejected USSR proposal to refer application to Committee on Admission of New Members 410th meeting, 16 February 1949	
26. The Palestine question	222nd meeting 9 December 1947	S/623 12 December 1947	Adopted resolution (S/2322) concerning passage through the Suez Canal of goods destined for Israel 558th meeting, 1 September 1951	
27. The India-Pakistan question ¹	226th meeting 6 January 1948	S/641 9 January 1948	Adopted resolution requesting United Nations representative to continue his efforts 566th meeting, 10 November 1951	
28. The Czechoslovak question	268th meeting 17 March 1948	S/700 22 March 1948	Discussed Argentine draft resolution 305th meeting, 24 May 1948	
29. Third Report of the Atomic Energy Commission	318th meeting 11 June 1948	S/843 16 June 1948	Adopted resolution (S/852) to transmit to the General Assembly the Commission's three reports 325th meeting, 22 June 1948	S/857 26 June 1948
30. Question of the Free Territory of Trieste	344th meeting 4 August 1948	S/959 10 August 1948	Rejected draft resolutions submitted by Yugoslavia and by Ukrainian SSR 354th meeting, 19 August 1948	
31. The Hyderabad question	357th meeting 16 September 1948	S/1010 22 September 1948	Heard statements by the representatives of India and Pakistan 425th and 426th meetings, 19 and 24 May 1949 ¹	
32. Conditions under which a State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations may participate in electing members of the International Court of Justice	360th meeting 28 September 1948	S/1021 1 October 1948	Approved Belgian draft resolution 360th meeting, 28 September 1948	S/1021 1 October 1948
33. Identic Notifications dated 29 September 1948	362nd meeting 5 October 1948	S/1029 7 October 1948	Rejected joint draft resolution (S/1048) 372nd meeting, 25 October 1948	
34. Applications for Membership Nepal	423rd meeting 8 April 1949	S/1306 11 April 1949	Not recommended 439th meeting, 7 September 1949	

¹ The India-Pakistan question: This item was entitled the Kashmir question in S/641. This was changed to the Kashmir and Jammu question in S/653 of 17 January 1948. The present

title, India-Pakistan question, first appears in S/675 of 13 February 1948.

¹ See Case 60.

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in Summary Statement</i>	<i>Last action of the Council as of 31 December 1951</i>	<i>Final entry in Summary Statement as of 31 December 1951</i>
35. Application of the Principality of Liechtenstein to become a party to the Statute of the International Court of Justice	423rd meeting 8 April 1949	S/1306 11 April 1949	Adopted resolution recommending Liechtenstein to become a party to the Statute 432nd meeting, 27 July 1949	S/1361 2 August 1949
36. Applications for Membership				
Reconsideration [*]				
Portugal	} 427th meeting 16 June 1949	S/1356 26 July 1949	Not adopted 443rd meeting, 13 September 1949	
Jordan				
Italy				
Finland				
Ireland				
Austria				
Ceylon				
Albania	} 427th meeting 16 June 1949	S/1356 26 July 1949	Not adopted 445th meeting (2 votes) 15 September 1949	
Mongolian People's Republic				
Bulgaria				
Roumania				
Hungary				
Reconsideration				
Nepal		S/1388 ¹ 12 September 1949	Not adopted 445th meeting, 15 September 1949	
37. Travelling expenses and subsistence allowances of Alternate Representatives on certain Security Council Commissions	432nd meeting 27 July 1949	S/1361 2 August 1949	Adopted resolution (S/1401) 448th meeting, 27 September 1949	S/1402 4 October 1949
38. International Control of Atomic Energy ^m	444th meeting 15 September 1949	S/1394 ⁿ 21 September 1949	Adopted Canadian draft resolution, as amended, and rejected USSR draft resolution (S/1391/Rev.1) 447th meeting, 16 September 1949	
39. Cablegram dated 5 August 1949 from the Consular Commission at Batavia to the Secretary-General requesting that the United Nations assume future costs of military observers in Indonesia	446th meeting 16 September 1949	S/1394 21 September 1949	Adopted resolution (S/1404) referring the cablegram to the Secretary-General 449th meeting, 5 October 1949	S/1406 12 October 1949
40. The Question of Chinese representation in the Security Council ^o	460th meeting 12 January 1950	S/1450 16 January 1950	Rejected USSR draft resolution at 461st meeting, 13 January 1950, and Yugoslav draft resolution at 462nd meeting, 17 January 1950 ^p	S/1451 23 January 1950
41. Appointment of a rapporteur or conciliator for a situation or dispute brought to the attention of the Security Council (General Assembly resolution 268 B (III) of 28 April 1949)	472nd meeting 24 May 1950	S/1487 29 May 1950	Adopted French draft resolution (S/1486) 472nd meeting, 24 May 1950	S/1512 26 June 1950

^{*} Under the agenda heading "Other applications for membership in the United Nations", the sub-items were the General Assembly resolutions 197 (III) A,B,C,D,E,F,G,H, of 8 December 1948, and communications renewing applications from Bulgaria (S/1012 and Add.1), Hungary (S/1017 and Add.1), Albania (S/1033 and S/1105), People's Republic of Mongolia (S/1035 and Add.1), and Roumania (S/1051 and Add.1).

¹ In virtue of revision of USSR draft resolution at 440th meeting, 9 September 1949, withdrawn at 442nd meeting, 13 September 1949, and original of 21 June 1949 reinstated with name of Nepal added after that of Ceylon (S/1340/Rev.2).

^m The agenda item at the 444th through 447th meetings of the Security Council was entitled "Letter dated 29 July 1949 from the Chairman of the Atomic Energy Commission addressed to the President of the Security Council (S/1377)".

ⁿ An earlier summary statement, S/1388 of 12 September 1949, referred under the same heading to a Canadian draft resolution (S/1386) circulated in anticipation of the discussion of the question at a forthcoming meeting.

^o The title of the agenda item was "Draft resolution submitted by the representative of the USSR at the 459th meeting of the Security Council on 10 January 1950 (S/1443).

^p See Case 62.

Item	First inclusion in the agenda	First entry in Summary Statement	Last action of the Council as of 31 December 1951	Final entry in Summary Statement as of 31 December 1951
42. Complaint of aggression upon the Republic of Korea	473rd meeting 25 June 1950	S/1512 26 June 1950	Removed from the list of matters 531st meeting, 31 January 1951 ^a	S/2001 5 February 1951
43. Complaint of armed invasion of Taiwan (Formosa)	492nd meeting 29 August 1950	S/1774 7 September 1950	Rejected draft resolutions (S/1757 and S/1921) 530th meeting, 30 November 1950	
44. Complaint of bombing by air forces of the territory of China	493rd meeting 31 August 1950	S/1774 7 September 1950	Failed to adopt U.S. draft resolution (S/1752) and rejected USSR draft resolution (S/1745) 501st meeting, 12 September 1950	
45. Complaint of expulsion by Israel of thousands of Palestinian Arabs into Egyptian territory and the violation by Israel of the Egyptian-Israeli General Armistice Agreement	502nd meeting 18 September 1950	S/1811 26 September 1950	This item was discussed as part of the Palestine question and a resolution (S/1907 and Corr.1) adopted dealing with it, <i>inter alia</i> 524th meeting, 17 November 1950	S/1811 26 September 1950
46. Application for Membership Republic of Indonesia	503rd meeting 26 September 1950	S/1831 3 October 1950	Recommended 26 September 1950	S/2029 6 March 1951
47. Question of recommendation regarding the Secretary-General	509th meeting (private) 9 October 1950	S/1851 17 October 1950	Informed General Assembly of its inability to agree on recommendation 516th meeting (private), 30 October 1950	S/1888 8 November 1950
48. Complaint of failure by the Iranian Government to comply with provisional measures indicated by the International Court of Justice in the Anglo-Iranian Oil Company case	559th meeting 1 October 1951	S/2364 2 October 1951	Adopted French motion to adjourn the debate until the International Court had ruled on its own competence 565th meeting, 19 October 1951	
49. Application for Membership General Assembly Resolution of 7 December 1951 Reconsideration of Application of Italy	568th meeting 18 December 1951	S/2451 22 December 1951	Postponed indefinitely 569th meeting, 19 December 1951	
General Assembly Resolution 495 (V) of 4 December 1950	568th meeting 18 December 1951		Postponed indefinitely 569th meeting, 19 December 1951	

^a See Case 63.

2. Proceedings of the Security Council regarding the retention and deletion of items from the agenda

CASE 56

At the 32nd meeting on 15 April 1946, in connexion with the Iranian question, the Security Council considered a proposal of the representative of the USSR⁹ that the question be removed from its agenda on the grounds that the resolution of the Security Council of 4 April was incorrect and illegal, being in conflict with the Charter, and that, as announced in a joint USSR-Iranian communique of 4 April, understanding on all points had been reached. At the same meeting, the Council had before it two communications from the Iranian Ambassador.¹⁰ The first of these, dated 9 April 1946, stated that it was his Government's desire that the question remain on the Council's agenda as provided by the resolution of the Security Council of 4 April 1946. The second communication, dated 15 April 1946, announced conclusion of an agreement with the USSR for the evacuation of Soviet troops from Iranian territory by 6 May and added that "the Iranian Government has no doubt that this agreement will be carried out, but at the same time has not the right to fix the course the Security Council should take". In the same communication it was stated that subsequent instructions had been received "that the Iranian Government has complete confidence in the word and pledge of the Soviet Government and for this reason withdraws its complaint from the Security Council".

The representative of France introduced a draft resolution which, as revised at the 33rd meeting on 16 April 1946, took note of the Iranian representative's letter of 15 April and of the agreement reached between the Governments concerned and requested the Secretary-General "to collect the necessary information in order to complete the Security Council's report to the Assembly, in accordance with Article 24 of the Charter, on the manner in which it dealt with the case placed on its agenda on 26 March last at the request, now withdrawn, of the Government of Iran".¹¹

At the 33rd meeting of 16 April 1946, the Council had before it, in addition to the documents mentioned above, a communication from the Secretary-General¹² concerning the legal aspects of the question of the retention of the Iranian case on the agenda of the Security Council in view of the fact that "both parties now have requested that it be removed".

"It is to be noted that the Security Council can be seized of a dispute or situation in one of three ways:

- "1. Under Article 35 by a State;
- "2. Under Article 34 by the Security Council itself;
- "3. Under Article 99 by the Secretary-General.

"In the present case, Article 99 is obviously not applicable. The Security Council has taken no action under Article 34, i.e., it has not ordered an investi-

gation, which is the only action possible under that Article. It is therefore not applicable at this time and cannot become applicable until an investigation is ordered.

"The Council was originally seized of the dispute under Article 35, paragraph 1. Now that Iran has withdrawn its complaint, the Council can take no action under Articles 33, 36, 37 or 38, since the necessary conditions for applying these Articles (namely, a dispute between two or more parties) do not exist. The only Article under which it can act at all is Article 34. But that Article, as has already been stated, can only be invoked by a vote to investigate, which has not been taken or even suggested in this case.

"It is therefore arguable that following withdrawal by the Iranian representative, the question is automatically removed from the agenda, unless:

"(a) The Security Council votes an investigation under Article 34; or

"(b) A member brings the matter up as a situation or dispute under Article 35; or

"(c) The Council proceeds under Article 36, paragraph 1, which would appear to require a preliminary finding that a dispute exists under Article 33, or that there is 'a situation of like nature'.

"An argument which may be made against the view of automatic removal from the agenda is that once a matter is brought to the attention of the Council, it is no longer a matter solely between the original parties, but one in which the Council collectively has an interest, as representing the whole of the United Nations. This may well be true; but it would appear that the only way in which, under the Charter, the Council can exercise that interest is under Article 34, or under Article 36, paragraph 1. Since the Council has not chosen to invoke Article 34 in the only way in which it can be invoked, i.e., through voting an investigation, and has not chosen to invoke Article 36, paragraph 1, by deciding that a dispute exists under Article 33 or that there is a situation of like nature, it may well be that there is no way in which it can remain seized of the matter."

The memorandum was referred by the Council to the Committee of Experts for examination and report.¹³

At the 36th meeting on 23 April 1946, the Council had before it the report of the Chairman of the Committee of Experts.¹⁴ The Committee of Experts, which studied "from an abstract point of view the problem whether the Security Council can remain seized of a matter after the interested parties have requested its withdrawal", was unable to "formulate a common opinion".

"There was agreement in principle that when a matter has been submitted to the Security Council by a party, it cannot be withdrawn from the list of matters of which the Security Council is seized without a decision by the Security Council.

"It seemed all the more necessary to define these points exactly since the Secretary-General's memorandum, which was criticized in this respect by several representatives, referred to an automatic

⁹ S/36, O.R., 1st year, 1st series, Suppl. No. 2, pp. 46-47.

¹⁰ S/33, O.R., 1st year, 1st series, Suppl. No. 2, p. 47; S/37, 32nd meeting: pp. 122-123.

¹¹ 33rd meeting: pp. 142-143.

¹² S/39, 33rd meeting: pp. 143-145.

¹³ 33rd meeting: p. 145.

¹⁴ S/42, O.R., 1st year, 1st series, Suppl. No. 2, pp. 47-50.

process which seemed to exclude intervention by the Security Council.

"But the very freedom of decision of the Security Council was challenged, and the Committee was divided in this respect between two opposing views.

"While certain delegates were of the opinion that if the parties to a dispute ask the Security Council to drop the matter—particularly when they have reached an agreement—the Security Council must decide accordingly, other representatives, on the other hand, thought that the Security Council's freedom of judgment and decision remain unimpaired.

"I.

"Certain representatives observed in this connexion that the Secretary-General's memorandum had put the problem on too narrow a basis, since it referred only to a dispute and since it treated such a dispute merely as a lawsuit between two parties. Such a definition implied an inexact understanding, in the first place of the functions of the Security Council (which is not a Court of Justice) and in the second place of the nature of its competence, which includes the consideration of situations, and which in any case far exceeds the narrow framework within which the memorandum would tend to confine it.

"This was the opinion expressed with variations by the delegations of Australia, Brazil, China, Egypt, Mexico, the Netherlands, the United Kingdom and the United States. Some of these representatives observed that for the Security Council to drop the matter, it is not enough for the parties to the dispute to have come to an agreement . . .

"Several representatives in the same group drew the Committee's attention to the mistake which the memorandum seems to have made in failing to distinguish clearly between the decision by which the Security Council becomes seized of a question and any decision which it might take under Article 34. The decision by which the Security Council is seized of a question is absolutely independent of and distinct from the measures which it may decide to take under Article 34.

"II.

"On the other hand, according to the opinion of the representatives of France, Poland and the USSR, the rules governing the procedure for the withdrawal of a question submitted to the Security Council vary according to whether a dispute or situation is involved. The notion of a dispute is of a subjective nature. It is essentially a conflict between two or more States, which exists only by virtue of the opposition between the interested parties.

"The same delegates maintained that it is in conformity with common sense, logic, and law to affirm that if all the parties to a dispute have reached an agreement, the threat to the maintenance of peace from the prolongation of such a dispute thereby disappears. If the parties to a dispute have reached an agreement after negotiations which they have undertaken, either voluntarily or in fulfilment of a recommendation made by the Security Council in accordance with Article 33 of the Charter, and if they ask the Security Council to drop the dispute in question, the Security Council is bound to do so, after having noted that their agreement has put an end to the dispute.

"With regard to the notion of 'situation', it has, in the opinion of the same group, a clearly objective character. As in the case in which the attention of the Security Council is drawn to a dispute by a Member not a party to this dispute, a situation exists independently of the Member of the Organization which may have brought it to the attention of the Security Council. The Security Council may remain seized of it even if the Member which has brought it to the attention of the Security Council declares its desire to withdraw the communication which it had made in accordance with Article 35, paragraph 1, of the Charter."

Decision: *The President proposed that the French draft resolution be considered as an amendment to the earlier proposal of the USSR representative. The latter having signified his support of the French proposal, it was put to the vote and rejected by 3 votes in favour and 8 votes against.*¹⁵

At the 43rd meeting on 22 May 1946, in further connexion with the question whether the Iranian question should be removed from or retained on the agenda, a proposal by the representative of the Netherlands to adjourn "the discussion of the Iranian question until a date in the near future, the Council to be called together at the request of any member" was adopted by 9 votes in favour and 1 against.¹⁶

The question still remains on the list of matters of which the Security Council is seized.

CASE 57

In connexion with the Ukrainian complaint against Greece, which was included in the agenda of the Security Council at the 59th meeting on 3 September 1946, the following draft resolutions were submitted:

(1) By the representative of Australia at the 67th meeting on 16 September 1946 to "pass to the next item on the agenda".¹⁷

(2) By the representative of the USSR at the same meeting to find that the circumstances existing in Greece and on her frontiers created a situation envisaged by Article 34 of the Charter and "to retain on the agenda of the Security Council the question of the menacing situation brought about as the result of the activities of the Greek Government so long as the latter fails to carry out the recommendations proposed by the Security Council".¹⁸

(3) By the representative of the Netherlands at the 69th meeting on 18 September 1946 to invite the Secretary-General to notify the Governments of Greece, Yugoslavia, Albania and Bulgaria of the Council's hope that they would stop the frontier incidents taking place among them.¹⁹

¹⁵ 36th meeting: p. 213. For texts of relevant statements see: 32nd meeting: Australia, p. 132; Brazil, p. 133; Egypt, p. 139; France, p. 135; Netherlands, pp. 127-128; Poland, pp. 137-138; USSR, pp. 133-134; United Kingdom, p. 130; United States, p. 127.

¹⁶ 33rd meeting: President (China), p. 148; France, p. 149; Netherlands, pp. 147-148; USSR, p. 147; United States, p. 146.

¹⁷ 36th meeting: Australia, p. 204; China, p. 211; France, pp. 206-207; Mexico, p. 210; Netherlands, p. 212; Poland, pp. 208-209; USSR, pp. 201-203; United Kingdom, pp. 207-208.

¹⁸ 43rd meeting: pp. 304-305. One member (USSR) was absent.

¹⁹ 67th meeting: p. 329.

¹⁷ 67th meeting: pp. 334-335.

¹⁹ 69th meeting: p. 390.

(4) By the representative of the United States at the 70th meeting on 20 September 1946 to establish a Commission under Article 34 of the Charter to investigate the facts.²⁰

At the 70th meeting on 20 September 1946, the Council agreed to vote on the Australian draft resolution only after the votes on the other draft resolutions directly related to the question under consideration. The draft resolutions submitted by the representatives of the USSR, the Netherlands and the United States were then put to the vote. All three draft resolutions failed of adoption.²¹

Thereupon, the representative of Poland submitted a draft resolution to keep the situation brought to the Security Council's attention by the Ukrainian SSR under observation and to retain it on the list of the matters of which the Council is seized.

The President (USSR), declaring that the Polish draft resolution related to the substance of the question, put it to the vote.

Decision: *The Polish draft resolution was rejected by 2 votes in favour and 9 against.*²²

The President put to the Council the question whether it was necessary to adopt the Australian draft resolution, inasmuch as the agenda itself obliged the Council to pass to the next item on the agenda.

The representative of Australia declared that to remove an item from the agenda, some formal decision by the Council was necessary. The Australian draft resolution was

"intended . . . to have the effect of a formal decision by this Council regarding this item on the agenda . . . the most appropriate decision which this Council could take regarding the Ukrainian letter is to remove it from the agenda."

He asked for a vote on his draft resolution.

The President observed that if the Australian draft resolution was not adopted it would not mean that the Security Council was unable to pass to the next item on the agenda.

" . . . taking into account the particular interpretation which was given by the Australian representative to his resolution—he repeatedly expressed the view that the adoption of his resolution would mean disapproval of the Ukrainian statement . . . this resolution cannot be regarded as procedural . . ."

"I wish also to remind the members of the Council that my proposal to leave the item on the agenda of the Security Council was not accepted and the proposal submitted by the Polish representative to leave the matter under the observation of the Security Council was not accepted either. The Australian representative is probably under the impression that the negative decisions on my own proposal and that of the Polish representative meant leaving the question on the agenda. That is precisely what I would like to have seen, but unfortunately the decision was a negative one."

Replying to the President, the Australian representative resubmitted his draft resolution, altered to read "remove this item from the agenda". He declared that

while the thought behind the draft resolution was to remove the item from the agenda because it was unsubstantiated, it was none the less a procedural proposal. "I think it is indisputable that if we admit items to the agenda by procedural vote, we also remove them by a procedural vote." He added that "if we understand from the Chair, that those two prior votes are a decision by 9 votes to 2, dismissing this item from the agenda of the Security Council, we see no need to press this motion, but short of that clear understanding we feel compelled to press it".

The President ruled:

" . . . in view of the negative vote on the fourth point of my draft resolution and in view of the negative vote taken on the Polish resolution, there is no need to take a vote on the proposal to retain the matter on the agenda or to exclude the matter from the agenda. Further, since the Security Council has no other proposal on the substance of the matter, beside those which have already been voted upon, the Security Council is ready to pass on to the next item on the agenda."

To the Australian representative's question whether the President's language meant that the item had already been removed from the agenda, the reply was that the statement was very clear. The Australian representative then pressed for a vote on the draft resolution.

At the suggestion of the representative of the United States, the Secretary-General was asked for his opinion, and particularly, whether if the President's ruling were accepted, "the Secretary-General would list this case on the matters of which the Council remains seized in that periodic paper which he circulates to the Council?"

The Secretary-General declared that

"If the Security Council follows the ruling of the President, in my opinion, the Council is no longer seized with this case and it will automatically be taken off the agenda.

"We had a case which was similar in London; it was the Indonesian case, and after all the proposals had been defeated, the result was that 'for the present the Council would pass on to its next item of business'. Since then, that case has never been on the agenda."

The representative of France, summarizing the discussion, declared

"By rejecting the Polish proposal, which aimed at retaining the question on the agenda, we have thus decided that the question is no longer on the agenda.

" . . . If my interpretation . . . is correct, I consider there is no need to vote on the Australian proposal, since this has already been adopted in principle by our vote against the Polish proposal."

The representative of Australia agreed

" . . . that the combination of the three statements makes it clear that this Council, by a vote of 9 to 2, has removed the Ukrainian item from its agenda, and since there is apparently no dissent to this opinion but agreement with it, I withdraw my resolution."

The President declared that

"The statement made by the Australian representative will be recorded in the minutes of the meeting, as well as all other statements."

²⁰ 70th meeting: p. 396.

²¹ 70th meeting: pp. 406-408, 408-409, 409-410, 412. See chapter VIII, p. 308.

²² 70th meeting: p. 417.

The item did not thereafter appear in the list of matters.²³

CASE 58

At the 122nd meeting on 25 March 1947, in connexion with the Corfu Channel question, following a motion by the representative of the United Kingdom for adjournment, the following exchange of views took place.

The representative of Syria, on a point of order, inquired:

"...since the United Kingdom draft resolution has not been accepted, is this case to be dismissed altogether or is it to remain on the agenda until we find some other proposal or draft resolution which may please the permanent members of the Security Council?"

The President (Brazil) stated that the matter would remain on the agenda. The representative of the USSR then stated:

"The Security Council has not been able to reach a decision on this question. I therefore see no reason to retain this question on the agenda. The Security Council has discussed certain questions in the past on which it has been unable to reach positive decisions, and these questions fell into abeyance and ceased to be listed on the agenda of the Security Council or, as we say officially, on the list of questions of which the Security Council was seized. I do not think, therefore, that there is any reason to consider that this question is on the agenda of the Security Council."

The President, observing that the Council had not completed its consideration of the question, quoted rule 10 of the provisional rules of procedure in support of his decision.

The representative of the USSR declared that

"I do not consider that this question is still on the agenda, in view of the fact that the Council has not been able to reach a positive decision on this question. I shall not consider that it is on our agenda until the Security Council decides that it is necessary to retain this item on its agenda."

The representative of Syria stated:

"I consider that the Security Council is expected to find a solution or take a final decision on any subject or accusation presented to it. If the Security Council fails today to arrive at a final solution acceptable to all the members, especially the permanent members of the Security Council, that does not mean that the Security Council would fail tomorrow or some other time. The Security Council cannot consider anything as finally decided upon, unless a decision is taken for the dismissal of the question, or unless a decision is made which would be effective, according to the subject which is before it.

"I therefore consider that it is natural and goes without saying that, as long as the matter is not dismissed by the Security Council, it remains on the agenda. We do not expect that this subject,

²³ For texts of relevant statements see: 70th meeting: President (USSR), pp. 419-420, 422; Australia, pp. 405, 406, 417, 422; France, p. 422; Netherlands, p. 418; Poland, pp. 413-414; United Kingdom, pp. 415-416; United States, p. 421; Secretary-General, p. 421.

which has not been decided upon today, cannot be settled tomorrow or that some other solution cannot be found in the future. I, therefore, consider that it remains on the agenda."

The item was included in the agenda as adopted at the 125th meeting.²⁴

CASE 59

At the 189th meeting on 20 August 1947, in connexion with the Egyptian question, the representative of Brazil declared that in the face of a situation which presented no immediate danger to international peace, his delegation was of the opinion that the Security Council was not justified in taking action, but should let the parties settle their differences by having recourse to the usual methods of settlement provided by international law. Accordingly, he submitted a draft resolution²⁵ to recommend to the two Governments that they resume direct negotiations, and, in paragraph (b), that they "keep the Security Council informed of the progress of these negotiations".

At the 196th meeting on 26 August 1947, the representative of Australia stated:

"If this resolution is adopted, we think the case should be removed from the agenda. If any member or any party can produce adequate reasons, such as a complete breakdown of negotiations, the case can again be put on the agenda. At the present time, however, there is no indication whatsoever that the negotiations will fail and no reason why they should fail."

At the 198th meeting on 28 August 1947, the representative of the United States stated that paragraph (b) of the Brazilian proposal was

"...technically ... a very strong statement... It is implicit in that paragraph that the matter remains a subject of which the Security Council is seized. Friction has arisen between these two countries. I think it is perfectly legitimate for the Security Council to remain seized of this question and to expect that its recommendation to the Governments of the United Kingdom and Egypt to the effect that they should keep the Security Council informed of the progress of their negotiations will be punctiliously carried out..."

"I shall vote for the Brazilian resolution in the belief and understanding and hope that sub-paragraph 3 (b) means that the Security Council remains seized of this question..."

The representative of the United Kingdom emphasized that he had accepted paragraph 3 (b) of the Brazilian draft resolution; in view of that provision, he could, however, see no reason why the Security Council should "resort to the rather unusual procedure of keeping the matter on the agenda". He thought that with the "adoption of the resolution . . . the Council would have disposed of one phase of the discussion, and the matter would then automatically be removed from the agenda. In this case, there must be another phase . . . Therefore, the Council must come back to the question and examine it again." He did not agree to its retention on the agenda because it "would constitute not only a denial of my original claim that the

²⁴ For texts of relevant statements see: 122nd meeting: President (Brazil), p. 611; Syria, pp. 611, 613; USSR, pp. 611-612; United Kingdom, p. 609.
²⁵ S/507, 189th meeting: pp. 2108-2109.

case should have been dismissed, . . . but also an implication that the Egyptian claim was in some way justified . . . Therefore, I do hope that the Council will be content with the last clause of the Brazilian resolution and remove the matter formally from the agenda . . .”

The President (Syria), in putting the draft resolution to the vote, stated:

“I shall put the amended Brazilian resolution to the vote, on the understanding that the paragraph reading ‘To keep the Security Council informed of the progress of these negotiations’, means that the matter remains on the agenda . . . There is no way of holding a meeting of the Council and reporting to that meeting certain information, unless the matter in question is on the agenda.”

The amended Brazilian resolution was put to the vote at the 198th meeting but was not adopted.²⁶

The representative of Colombia then submitted a draft resolution²⁷ calling upon the parties to resume direct negotiations and “to keep the Security Council readily informed of the progress of their negotiations”. At the 200th meeting on 29 August 1947, the Colombian resolution was put to the vote but was not adopted.²⁸ After the rejection of the Colombian draft resolution, the representative of the USSR stated:

“I certainly think this question should be considered as remaining on the Council’s agenda and it seems to me that the majority of the other representatives on the Council are of the same opinion. If there are any contrary opinions on this matter, we shall have to take a decision. If we are all agreed, perhaps it would be sufficient for the President to make a statement to this effect.”

The President (Syria) stated:

“The last paragraph of the Colombian resolution, which reads: ‘To keep the Security Council readily informed of the progress of their negotiations’, certainly would have been adopted if the whole resolution had been passed. As all the other paragraphs were rejected, this last one was also rejected. That does not mean, however, that the matter is taken off the agenda. That paragraph pertains only to the Colombian resolution. Therefore the matter is still on the agenda, and we have to wait for some other draft resolution or proposal to be submitted by one of the members in order that the matter be discussed further. We cannot dismiss the question as long as no decision has been taken by the Security Council. The Security Council cannot abandon any case, unless a decision is taken which is supported by the majority of the Council.”

At the 201st meeting on 10 September 1947, a Chinese draft resolution recommending the parties to “keep the Security Council informed of the progress of these negotiations and report thereon to the Council in the first instance not later than 1 January 1948” was put to the vote and not adopted.²⁹

Following this, the President (USSR) stated:

“The Security Council has been unable to adopt any decision on the Egyptian question so far. Since we have no other proposals before us at this meet-

ing, our work today is finished . . . Of course, the Egyptian question remains on the agenda of the Security Council and the Council may be called to continue consideration of the question at the request of any member of the Council or either of the two parties involved.”

The representative of the United Kingdom stated:

“Is it the President’s personal ruling that since the Council has failed to reach a conclusion in this case, the question is automatically retained on the agenda? Is that provided for in any rule of procedure, or, if the Council wishes to retain the question on its agenda, is a Council decision required?”

The President (USSR) stated:

“Naturally, until the Council decides to remove this question from the agenda, it remains on the agenda.”³⁰

CASE 60

At the 357th meeting on 16 September 1948, the Security Council decided to include the Hyderabad question in the agenda.

On 23 September 1948, a cablegram was received from the Nizam of Hyderabad which included the following statement:

“This morning I read with surprise in the newspapers that Mr. Zahir Ahmed stated before the Security Council that no instructions had been received by him asking him to withdraw the Hyderabad case from the Security Council. As a matter of fact, on the 18th September 1948, I sent a message which was duly communicated to Nawab Moin Nawaz Jung ordering him to withdraw Hyderabad’s case from the Security Council. I also asked my Agent General in New Delhi to get in touch with Nawab Moin Nawaz Jung and communicate to him the said order. To resolve all doubts in the matter, I now formally address this letter to you and request you to note that the complaint made by my Government to the Security Council has been withdrawn by me . . .”³¹

At the 360th meeting on 28 September 1948, the representative of Argentina observed that “if the complaint is withdrawn, as the Nizam of Hyderabad requests, there is no problem before us, and no reason to continue the discussion”. The representative of Colombia also stated that if the letter had been signed voluntarily by the Nizam “it has, of course, full legal value and should lead to the withdrawal of the delegation and also to the removal of the item from the agenda of the Security Council. If it was signed under compulsion, however, it has no value and cannot produce these results.”

On 12 December 1948, the representative of Hyderabad submitted a letter to the President of the Security Council in which he made the following statement:

²⁶ For texts of relevant statements see:

189th meeting: Brazil, p. 2107.

196th meeting: President (Syria), p. 2304; China, pp. 2300-2301; Colombia, pp. 2287-2290; Egypt, pp. 2292-2295; France, 2290-2292; USSR, pp. 2283-2286; United Kingdom, pp. 2298-2299; United States, pp. 2296-2297.

200th meeting: President (Syria), pp. 2340-2341; USSR, p. 2340.

201st meeting: President (USSR), pp. 2362-2363; United Kingdom, p. 2363.

³¹ S/1011, *OR.*, 3rd year, *Suppl. for Sept. 1948*, p. 7.

²⁷ 198th meeting: pp. 2304-2305.

²⁸ S/350, 198th meeting: p. 2305.

²⁹ 200th meeting: pp. 2339-2340.

³⁰ S/547, 201st meeting: p. 2344, 2362.

"The second question which requires elucidation in this connexion is one of law, namely, to what extent the Security Council can consider as valid the instructions, ordering the withdrawal of a complaint lodged before the United Nations, of the head of a State invaded and occupied by an aggressor. That question, which could be properly answered by the International Court of Justice, is of vital importance not only for Hyderabad but also, we believe, for the United Nations and we trust that the Security Council will not fail to take appropriate action in this regard."³²

At the 424th meeting on 10 May 1949, the President (France) proposed, without objection, that the Council follow a suggestion by the representative of Egypt that the question of Hyderabad be retained on the agenda of the Security Council until it was completely disposed of.³³ At the 425th and 426th meetings on 19 and 24 May 1949, the Council heard the representatives of India and Pakistan.

CASE 61

At the 456th meeting on 13 December 1949, in connexion with the Indonesian question (II), the last paragraph of a Canadian draft resolution concerning the report of the United Nations Commission for Indonesia on the Round Table Conference contained the following provision:

"And requests the United Nations Commission for Indonesia to continue to discharge the responsibilities entrusted to it by the Security Council, and, in particular, to observe and assist in the implementation of the agreements reached at the Round Table Conference, and to report thereon to the Security Council."³⁴

The President (Canada) made the following statement after the draft resolution had been rejected:³⁵

"... I would say ... that resolution would have no effect whatsoever on the previous decisions which have been taken by the Council unless it were adopted. If this resolution were defeated, as it has been, the previous resolutions in the Security Council remain in full force and effect."

Decision: *The President stated that he would "in my capacity as President, as a matter of procedure, request the Secretariat to transmit to our Commission*

³² S/1118, O.R., 3rd year, Suppl. for Dec. 1948, pp. 209-210. See chapter VIII, pp. 353-354.

³³ For texts of relevant statements see:

360th meeting: President (United Kingdom), pp. 4-5, 9-10; Argentina, pp. 6-9, 11; China, p. 10; Colombia, pp. 5, 11-12; Syria, pp. 5-6.

424th meeting: President (France), p. 10; Egypt, p. 10.

³⁴ S/1431, O.R., 4th year, Suppl. for Sept.-Dec. 1949, pp. 13-14.

³⁵ 456th meeting: p. 35.

for Indonesia a copy of the proceedings . . . as guidance in the future action which remains to be carried out . . ."³⁶ On 9 January 1950, the Commission submitted to the Security Council its second interim report.³⁷

CASE 62

At the 463rd meeting on 7 February 1950, the representative of Yugoslavia requested that two telegrams from the Foreign Minister of the People's Republic of China, on the subject of the representation of China,³⁸ be distributed as official Security Council documents. The President (Cuba) stated that he could not have the documents circulated officially since the matter was not on the Council's agenda.

The representative of Yugoslavia stated:

"According to the established practice of the Council and the General Assembly any delegation is, I believe, entitled to request the circulation of a document in official form, particularly if that document relates to an item which is still on the agenda. The Council has never decided to remove the question of China from its agenda. A decision has been taken, but that does not mean that the question of China is no longer on the agenda."

The President replied that "this matter was already decided by the Council and is not on the permanent agenda. Consequently, the Chair feels that it cannot officially distribute the documents in question."³⁹

CASE 63

At the 531st meeting on 31 January 1951, the representative of the United Kingdom submitted a draft resolution "to remove the item 'Complaint of aggression upon the Republic of Korea' from the list of matters of which the Council is seized". He stated:

"... a decision to remove this item from the Council's agenda would not . . . invalidate in any way the actions which the Council has already taken on this question. Nor would it, of course, prevent the Council from taking the matter up again at any moment in the future, if it should so desire, by a simple procedural vote."⁴⁰

³⁶ 456th meeting: p. 36.

³⁷ S/1449, O.R., 5th year, Special Suppl. No. 1.

³⁸ The question of the representation of China was discussed at the 460th through 462nd meetings between 12 January and 7 February 1950. Draft resolutions submitted by the representatives of the USSR and Yugoslavia failed of adoption.

³⁹ 463rd meeting: pp. 33-34.

The question of the representation of China on the Security Council appeared in the summary statement by the Secretary-General, S/1450, 16 January 1950, but was omitted from subsequent summary statements; see S/1451, 23 January 1950, and S/1452, 31 January 1950.

⁴⁰ 531st meeting: p. 8. For discussion in relation to Article 12, see chapter VI; Case 4; for text of decision, see chapter VIII, p. 358.